



Office of General Services Procurement Services

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PIGGYBACK CONTRACT FOR HEAVY EQUIPMENT (STATEWIDE) BY AND BETWEEN NEW YORK STATE OFFICE OF GENERAL SERVICES AND CNH INDUSTRIAL AMERICA LLC

New York State Contract #

PC70987

Master Contract #

082923-CNH

THIS CONTRACT for establishment of a “piggyback” contract is made between **the People of the State of New York**, acting by and through the Commissioner of General Services (hereinafter “State” or “OGS”) whose principal place of business is the 36th Floor, Corning Tower, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242, pursuant to authority granted under New York State Finance Law §163(10)(e), and CNH Industrial America LLC (hereinafter “Contractor” or “Vendor” or “Offerer”), with its principal place of business at 700 State Street, Racine, WI 53404. OGS and Contractor are hereby individually referred to as a “Party” and collectively referred to as “Parties.”

Whereas, in accordance with New York State Finance Law § 163(10)(e), the Commissioner of OGS (hereinafter “Commissioner”) may authorize purchases required by New York State agencies or other authorized purchasers by approving the use of a contract let by any department, agency or instrumentality of the United States government and/or any department, agency, office, political subdivision or instrumentality of any state or states (hereinafter “Issuing Agency”);

Whereas, the Contract will be established and designated as an OGS Centralized Contract, and made available to all Authorized Users, as that term is defined in New York State Finance Law;

Whereas, Sourcewell, a department, agency, office, political subdivision or instrumentality of the State of Minnesota, has recently let a certain Contract Number 082923-CNH with Contractor for Ag Tractors with Related Attachments, Accessories, and Supplies (hereinafter “Master Contract”);

Whereas, OGS is a member of Sourcewell and is therefore authorized to utilize Sourcewell contracts;

Whereas, OGS Procurement Services (hereinafter “OGS” or “Procurement Services”), on behalf of the Commissioner, finds it necessary and desirable to enter into a contract (hereinafter “Piggyback Contract” or “Contract”), with Contractor for the purchase of specified products or services under the terms and conditions established pursuant to the Master Contract; and

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

Whereas, OGS provided notification of its intention to enter into this Piggyback Contract with Contractor by placing a notice in the November 6, 2025 edition of the New York State Contract Reporter.

Now Therefore, by completing and signing this Piggyback Contract, Contractor is willing and able to enter into a contract and authorizes OGS to process the Piggyback Contract and provide notification to Authorized Users regarding the availability of this Piggyback Contract.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

1. INTRODUCTION**1.1 Overview and Scope**

This document sets forth the terms and conditions governing acquisitions under this Piggyback Contract for use by Authorized Users. All the terms, conditions, covenants and representations contained herein and in the Master Contract, except as modified by this Piggyback Contract, are hereby incorporated by reference and deemed to be a part of this Piggyback Contract as if fully set forth at length herein. The terms and conditions of this Piggyback Contract shall supersede any conflicting terms and conditions set forth in the Master Contract.

The following Products, which may be approved for inclusion in the Master Contract, are excluded from the scope of this Contract:

1. Sourced products or related services, which may be referred to as open market items or non-standard options; and
2. Leased products.

Unless specifically excluded above, the scope of this Piggyback Contract includes all Products approved for inclusion in the Master Contract.

The Master Contract is expressly amended as noted in Section 2.1, *Contract Documents and Conflict of Terms*, below.

1.2 Estimated Quantities

This Piggyback Contract is an estimated quantity Contract. No specific quantities are represented or guaranteed, and the State provides no guarantee of individual Authorized User participation. The Contractor must furnish all quantities actually ordered at or below the Contract prices. The individual value of this Piggyback Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the Products and pricing that best meet their needs in the most practical and economical manner. See Appendix B *Estimated/Specific Quantity Contracts and Participation in Centralized Contracts*.

Numerous factors could cause the actual quantities of Products purchased under this Piggyback Contract to vary substantially from any estimates. Such factors include, but are not limited to, the following:

- This Piggyback Contract may be a non-exclusive contract;
- There is no guarantee of quantities to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of this Piggyback Contract is indeterminate and will depend upon actual Authorized User demand and actual quantities ordered during the contract period;
- The State reserves the right to terminate this Piggyback Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of this Piggyback Contract;
- Contract pricing that is lower than anticipated could result in a higher quantity of purchases by Authorized Users than anticipated; and
- Contract pricing that is higher than anticipated could result in a lower quantity of purchases by Authorized Users than anticipated.

Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of this Piggyback Contract could vary substantially from any estimates provided in this Piggyback Contract or previous purchases.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

1.3 NYS Comptroller Approval

In accordance with Section 112 of the State Finance Law, this Contract shall not be valid, effective or binding upon the State until such Contract has been approved by the Office of the New York State Comptroller (“OSC”). Purchase orders or other procurement transactions issued under such Contract(s) may also be subject to OSC approval.

2. CONTRACT TERMS AND CONDITIONS

2.1 Contract Documents and Conflict of Terms

This Piggyback Contract shall incorporate the following appendices and attachments as fully as if set forth herein at length. Only documents expressly enumerated below shall be deemed a part of this Piggyback Contract, and references contained in those documents to additional Contractor documents not enumerated below shall be of no force and effect. Conflicts between these documents shall be resolved in the following descending order of precedence.

- A. Appendix A – *Standard Clauses for New York State Contracts* (June 2023);
- B. Appendix C – *Federal Funding Agency Mandatory Terms and Conditions* (October 2023);
- C. Piggyback Contract (This Document);
- D. Appendix B – *General Specifications* (April 2016);
- E. Attachment 1 – *Pricing*;
- F. Attachment 2 – *Insurance Requirements*;
- G. Attachment 3 – *Report of Contract Usage*;
- H. Attachment 4 – *Contractor and Reseller/Distributor Information Sheet*; and
- I. Master Contract, Sourcewell Contract #082923-CNH.

2.2 Appendix B Modifications

The following Appendix B clauses are hereby modified for the purposes of this Contract:

Appendix B *Product Delivery*, has been modified in accordance with Section 2.13, *Product Delivery* of this Piggyback Contract.

2.3 Applicable Law

Notwithstanding any terms and conditions in the Master Contract to the contrary, this Piggyback Contract shall be governed by the laws of the State of New York. See Appendix A Section 14 *Governing Law*. Any claims or actions regarding this Piggyback Contract brought by Contractor against the State shall be brought in a court of competent jurisdiction of the State of New York. See Appendix A Section 16 *No Arbitration*.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

2.4 Contract Term and Extensions

The term of this Piggyback Contract shall begin on the date of approval by OSC, pursuant to Section 1.3 *NYS Comptroller Approval*, and shall end upon the expiration or termination of the Master Contract, subject to OGS' right to terminate this Piggyback Contract as provided herein. The term of this Piggyback Contract shall be deemed extended whenever the term of the Master Contract is extended, without the need for the Parties to execute an extension or amendment to this Piggyback Contract.

2.5 Price

The price for Product shall either be at the agreed-upon discounts and service rates listed in Attachment 1 – *Pricing*, or at a price that is more advantageous to the Authorized User.

Any discounts, pricing or Products offered on the OGS Piggyback Contract or included on an Authorized User invoice must be set forth within the Master Contract Pricelist or in another Master Contract document and shall be disclosed to and agreed upon in advance by Authorized User.

Price shall include all customs, duties, and charges, and be net, F.O.B. destination any point in New York State as designated by the ordering Authorized User.

In the alternative, shipping costs from the shipping point may be added to the invoice for the product, with a copy of the freight bill. Shipping costs are to be prepaid by Contractor and such orders are to be shipped on an F.O.B. destination basis. Contractor shall provide the Authorized User with an estimate of shipping charges prior to placement of an order. All such orders shall be shipped by the most economical method for the proper delivery of the product unless special instructions are stated on the Purchase Order by the Authorized User.

2.6 Price and Product Updates

The Attachment 1 – *Pricing* set forth in the Contract may be updated from time to time, without a Contract amendment, to reflect Contractor discount or price changes, and the addition/deletion of Products, that have been approved for the Master Contract pricelist. Contractor must notify OGS when the Master Contract holder has approved a Master Contract pricelist update, and provide OGS with an electronic copy of the approval and the approved updated pricelist or discount structure, as applicable. Updates to Attachment 1 – *Pricing* shall be posted on the OGS website for this Contract, and be effective on the date that the updates were originally approved by the Master Contract holder. Approval of the Master Contract pricelist update by the Master Contract holder, or OGS posting of updates to Attachment 1 – *Pricing* on the OGS website, does not indicate OGS approval of the addition of any Product that has been excluded from the Piggyback Contract scope (see Section 1.1 *Overview and Scope*).

2.7 Best Pricing Offer

During the Contract term, if the Commissioner becomes aware that the Contractor is selling substantially the same or a smaller quantity of a Product outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, after consultation with the Contractor, may be reduced to a lower price on a prospective basis at the discretion of the Commissioner. The Commissioner reserves the right to request information to verify pricing for the purposes of this clause.

Any prompt payment terms (cash discounts) or quantity (volume) discounts which are included in the Master Contract will also be included in this Piggyback Contract.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

2.8 Catalogs and Price Sheets

Catalogs and pricelists shall be provided in accordance with the terms of the Master Contract. Upon request, Contractor shall also assist Authorized Users in the use of such documents.

2.9 Ordering

Purchase Orders shall be made in accordance with the terms set forth in Appendix B *Purchase Orders*. Authorized Users may submit orders over the phone, and, if available, may submit orders electronically via web-based ordering, e-mail, or facsimile at any time. Orders submitted shall be deemed received by Contractor on the date submitted.

All orders shall reference Contract number, requisition, and/or Purchase Order number (if applicable). Upon Contractor's receipt of an order, confirmation is to be provided to the Authorized User electronically or via facsimile. Order confirmation should be sufficiently detailed, and include, at a minimum, purchase price, date of order, delivery information (if applicable), Authorized User name, and sales representative (if applicable).

2.10 Purchasing Card Orders

If the Contractor accepts orders using the State's Purchasing Card (see Appendix B *Purchasing Card*), also referred to as the Procurement Card, the Contractor shall not charge or bill the Authorized User for any additional charges related to the use of the Purchasing Card, including but not limited to processing charges, surcharges, or other fees.

2.11 Minimum Order

If the Master Contract contains minimum order quantities or values, Contractor may elect to honor orders for less than the minimum order.

If the Master Contract does not contain minimum order quantities or values, then there are no minimum order quantities under this Piggyback Contract.

2.12 Invoicing and Payment

Invoicing and payment shall be made in accordance with the terms set forth in Appendix B *Contract Invoicing*.

The Contractor is required to provide the Authorized User with one (1) invoice for each Purchase Order at the time of delivery. The invoice must include detailed line item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields must be included on each invoice:

- Contractor Name
- Contractor Billing Address
- Contractor Federal ID Number
- NYS Vendor ID Number
- Account Number
- NYS Contract Number
- Name of Authorized User indicated on the Purchase Order
- NYS Agency Unit ID (if applicable)
- Authorized User's Purchase Order Number
- Order Date
- Invoice Date
- Invoice Number
- Invoice Amount

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

- Product Descriptions
- Unit Price
- Quantity
- Unit of Measure
- Dates of Service (if applicable)

Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying ordering systems in use by different Authorized Users. Visit the following link for further guidance for vendors on invoicing: <https://bsc.ogs.ny.gov/nys-vendors>.

2.13 Product Delivery

Appendix B, Section 31 *Product Delivery*, is hereby deleted and replaced with the following:

Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract. Unless otherwise agreed to by the Authorized User and Contractor, delivery shall be made within ninety (90) calendar days after receipt of a Purchase Order by the Contractor. The decision of the Commissioner as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Commissioner and the Authorized User, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by the Authorized User. If compliance with the delivery time schedule is a material term of the Contract, failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Commissioner's discretion, the Contract.

2.14 Prompt Payments

Appendix B *Prompt Payments*, applies to this Piggyback Contract. The parties acknowledge that Article 11-A of the State Finance Law requires payments to small businesses to be made within fifteen (15) days if the conditions set forth therein are met.

The Federal Prompt Payment Act (or any other law governing payment terms incorporated in the Master Contract) does not apply to the Piggyback Contract regardless of customer.

2.15 Product Returns and Exchanges

In addition to the provisions of Appendix B *Title and Risk of Loss, Product Substitution, and Rejected Product*, Products returned or exchanged due to quality problems, duplicated shipments, outdated Product, incorrect Product shipped, Contractor errors otherwise not specified, or Products returned or exchanged due to Authorized User errors, shall be replaced with specified Products or the Authorized User shall be credited or refunded for the full purchase price.

Products shall be replaced within ten (10) business days of written notification to the Contractor of the Authorized User's intent to return or exchange the Product. Contractor can charge only a restocking fee for Product returned or exchanged due to Authorized User error that is determined not to be suitable for resale; the restocking fee cannot exceed the net price of the returned or exchanged Product.

Any credit or refund shall be applied against the next bill/invoice submitted by the Contractor to the Authorized User. If no credit or refund, or only a partial credit or refund, is made in such fashion, the Contractor shall pay to the Authorized User the amount of such credit or refund or portion thereof still outstanding, within thirty (30) calendar days of demand.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

2.16 Contract Administration

The Contractor shall provide a sufficient number of Customer Service employees who are knowledgeable and responsive to Authorized User needs and who can effectively service the Contract. Contractor shall also provide an Emergency Contact in the event of an emergency occurring after business hours or on weekend/NYS holidays.

Contractor shall provide a minimum of one (1) dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Information regarding the Customer Service, Emergency Contact, and Contract Administrator shall be set forth on the Contract Award Notification (CAN) and on the Contractor Information page for this Contract, which will be posted on the OGS website. Contractor must notify OGS within five (5) business days if it's Contract Administrator, Emergency Contact, or Customer Service employees change, and provide an interim contact person until the position is filled. Changes shall be submitted electronically via e-mail to the OGS Contract Management Specialist.

2.17 NYS Financial System (SFS)

New York State is currently operating on an Enterprise Resource Planning (ERP) system, Oracle PeopleSoft software, referred to as the Statewide Financial System (SFS). SFS supports requisition-to-payment processing and financial management functions. Further information regarding business processes, interfaces, and file layouts currently in place may be found at: <http://www.sfs.ny.gov> and <https://www.osc.ny.gov/state-agencies/gfo/chapter-iii/iii1-statewide-financial-system-sfs-overview>.

2.18 Contractor's Insurance Requirements

The Contractor shall maintain in force at all times during the terms of the Contract, policies of insurance pursuant to the requirements outlined in Attachment 2 – *Insurance Requirements*.

2.19 Report of Contract Usage

Contractor shall submit Attachment 3 – *Report of Contract Usage* including total sales to Authorized Users of this Contract by Contractor, and all authorized resellers, dealers and distributors, if any, no later than fifteen (15) days after the close of each calendar quarter. If the Contract period begins or ends in a fractional portion of a reporting period, only the actual Contract sales for this fractional period should be included in the quarterly report.

Contractors shall specify if any authorized resellers, dealers or distributors are NYS Certified Minority- and/or Women-Owned Business Enterprises (MWBES), small business enterprises (SBEs), or Service-Disabled Veteran-Owned Businesses (SDVOBs).

The report is to be submitted electronically via e-mail in Microsoft Excel to OGS Procurement Services, to the attention of the individual listed on the front page of the Contract Award Notification and shall reference the Contract Group Number, Award Number, Contract Number, Sales Period, and Contractor's name.

The report in Attachment 3 – *Report of Contract Usage* contains the minimum information required. Additional related sales information, such as detailed user purchases may be required by OGS and must be supplied upon request. Failure to submit reports on a timely basis may result in Contract cancellation and designation of Contractor as non-responsible.

In accordance with Section 2.25 *Environmental Sustainability and NYS Executive Order Number 22*, Contractor shall identify any Products that meet GreenNY Specifications on Contract Usage Reports.

The Authorized User reserves the right to request its applicable sales data from the Contractor, based on criteria identified by the Authorized User, over the life of the contract. If sales data is requested, Contractor must provide datapoints that are required by Attachment 3 – *Report of Contract Usage*.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

This Contract may be terminated if, on the one-year anniversary date of the Contract Award, and annually thereafter, the reports required to be filed under this Section show that the Contractor has made less than \$250,000.00 in sales to any Authorized User under the Contract for the prior year. Termination of the Contract under this Section is in addition to Appendix B *Termination*, and shall take effect upon written notification to the Contractor. The Contract may also be terminated for failure to file the reports required under this Section.

Contractor shall also make the report or the information therein available to Sourcewell upon request in accordance with the Master Contract.

2.20 Contractor Requirements and Procedures for Participation by New York State Certified Minority- and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

I. New York State Law

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”), the New York State Office of General Services (“OGS”) is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-Owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of OGS contracts.

II. General Provisions

- A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for MWBEs. Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, State, or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, breach of contract, withholding of funds, suspension or termination of the Contract, and/or such other actions or enforcement proceedings as allowed by the Contract and applicable law.

III. Equal Employment Opportunity (EEO)

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to all Contractors, and any subcontractors, awarded a subcontract over \$25,000 for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting State agency (the “Work”) except where the Work is for the beneficial use of the Contractor.
 - 1. Contractor and subcontractors shall undertake or continue existing EEO 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, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

This requirement does not apply to: (i) the performance of work or the provision of services or any other activity that is unrelated, separate, or distinct from the Contract; or (ii) employment outside New York State.

2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor's equal employment opportunity policy. In addition, Contractor agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A.

B. Form EEO 100 – Staffing Plan

To ensure compliance with this section, the Contractor agrees to submit, or has submitted with the Bid, a staffing plan on Form EEO 100 to OGS to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.

C. NYS Contract System Workforce Utilization Reporting Module (Commodities & Services)

1. The Contractor shall complete and shall require each of its subcontractors to complete a Workforce Audit on a quarterly basis throughout the term of this Contract, by the 10th day of April, July, October, and January. To report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. Contractor shall coordinate with its subcontractors to ensure that all workers associated with this Contract are properly counted and reported. To prepare the report, Contractor and its subcontractors shall use the NYS Contract System Workforce Audit Module found at the following website: <https://ny.newnycontracts.com>.
2. Separate audits shall be completed by Contractor and all subcontractors utilized on this contract and the Contractor is responsible for ensuring timely submission of the Workforce Audit by their subcontractors.
3. In limited instances, the Contractor or subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or subcontractor shall complete the Workforce Audit and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's or subcontractor's total workforce, the Contractor or subcontractor shall complete the Workforce Audit and indicate that the information provided is the Contractor's or subcontractor's total workforce during the subject time frame, not limited to work specifically performed under the Contract.

- D. Contractor shall comply with the provisions of the Human Rights Law and all other State and federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall 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.

IV. Contract Goals

- A. For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers, or suppliers to Contractor. Contractor is, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/>. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women's Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

B. Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include, but not be limited to, the following:

1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.
2. A list of the certified MWBEs appearing in the Empire State Development (“ESD”) MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
3. Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.
4. A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
5. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
6. Other information deemed relevant to the request.

V. Fraud

Any suspicion of fraud, waste, or abuse involving the contracting or certification of MWBEs shall be immediately reported to ESD’s Division of Minority and Women’s Business Development at (855) 373-4692.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/MWBE>

Vendor must scroll down to the section titled COMMODITY & SERVICE CONTRACTS and use the appropriate forms under this section only.

2.21 Participation Opportunities For New York State Certified Service-Disabled Veteran Owned Businesses

Article 3 of the New York State Veterans’ Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>.

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteranDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/Veterans/>

2.22 Use of Recycled or Remanufactured Materials

New York State supports and encourages Contractors to use recycled, remanufactured or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health or safety requirements or Product specifications contained herein. Refurbished or remanufactured components or Products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this Piggyback Contract. Warranties on refurbished or remanufactured components or Products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B *Remanufactured, Recycled, Recyclable or Recovered Materials*.

2.23 Bulk Delivery and Alternate Packaging

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A Contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the Product for the shipment of multi-unit purchases. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs. The following applies to Product packaging.

A. Packaging is REQUIRED to have the following sustainability attributes:

1. Pursuant to [NYS Hazardous Packaging Law Section 37-0205](#), the vendor is prohibited from offering packaging or packaging components (inks, dyes, pigments, adhesives, stabilizers, or any other additives) with lead, cadmium, mercury, or hexavalent chromium at concentration levels exceeding 100 parts per million by weight (0.01%).
2. Pursuant to [NYS Expanded Polystyrene Foam Container and Loose Packaging Law Section 27-3003](#), the vendor is prohibited from offering polystyrene loose fill packaging.

B. Verification of Packaging Requirements

At the request of OGS or the Authorized User, the Contractor must provide verification of compliance with one (1) or more of the required sustainability attributes for packaging. OGS and the Authorized User also reserve the right to request information documenting other Contractor environmental claims. The following types of verification documentation will be accepted:

- Third-party certification
- Product test results
- Compliance certification or affidavit signed by the manufacturer
- Other acceptable documentation as approved by OGS or the Authorized User

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

2.24 Surplus/Takeback/Recycling

The Contractor is encouraged to offer Product and packaging takeback and recycling services for its Products, and manufacturers must offer such services for electronic equipment (see Paragraph C below). Takeback services may include those offered by the manufacturer or the Contractor. When offered, the Contractor should provide the OGS Contract Manager with, at a minimum, a list of accepted Products and packaging materials, estimated pricing (if applicable), and contact information for the service.

- A. A State Agency is reminded of its obligation to comply with the NY State Finance Law § 167, Transfer and Disposal of Personal Property, and § 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing takeback, recycling, or other options for disposition of equipment that is still in operable condition.
- B. If Contractor offers a takeback/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the takeback/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Paragraph C below for specific requirements governing electronic equipment recycling.
- C. The NYS Department of Environmental Conservation (“DEC”) Electronic Equipment Recycling and Reuse Act (“Act”) (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>

If a Contractor offers a takeback/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (“NIST”) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

2.25 Environmental Sustainability and NYS Executive Order Number 22

New York State is committed to environmental sustainability, and seeks to minimize the environmental impact of any Products that the State Procures. Executive Order No. 22 *Leading By Example: Directing State Agencies to Adopt a Sustainability and Decarbonization Program* (“EO 22”), requires State Agencies, authorities, and public benefit corporations (“Affected Entities”) to follow GreenNY procurement specifications for commodities, services and technology. The GreenNY specifications consider a wide range of factors including avoidance of toxic substances, pollution reduction and prevention, sustainable manufacturing, reduction of greenhouse gas emissions, packaging, and water conservation. Resources are available on the OGS website at <https://ogs.ny.gov/greenny-purchasing-requirements-and-tools> for procurement managers and Contractors to learn about which Contracts provide environmentally preferable Products.

A. GreenNY Specifications

A list of GreenNY specifications is located on the OGS website at <https://ogs.ny.gov/greenny/approved-greenny-specifications>. Specification(s) that may currently be applicable to this Contract include, but may not be limited to, Brake Pads (see <https://ogs.ny.gov/greenny/brake-pads>), Engine block heaters (<https://ogs.ny.gov/greenny/engine-block-heaters>), Hydraulic Oil, High Detergent (<https://ogs.ny.gov/greenny/hydraulic-oil-high-detergent>), Lubricating Oil, High Detergent (<https://ogs.ny.gov/greenny/lubricating-oil-high-detergent>), Passenger Vehicles

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

(<https://ogs.ny.gov/greeny/passenger-vehicles>), and/or Vehicle Wheel Weights and Continuous Wheel Balancers (<https://ogs.ny.gov/greeny/vehicle-wheel-weights-and-continuous-wheel-balancers>).

B. Product Labeling per GreenNY Specifications

Over the life of the Contract, the Contractor must label the environmental attributes of all environmentally preferable Products per the GreenNY specifications, or other applicable environmental specifications for this Contract, on its Contract pricelist (see Attachment 1 – *Pricing*), and in any catalogs, marketing materials, or online ordering portal associated with this Contract.

Contractor shall also note Products that meet GreenNY Specifications on Contract Usage Reports (see Section 2.19 *Report of Contract Usage*), in the format requested by OGS.

All claims made about the environmental attributes of the Products and packaging offered shall be consistent with the Federal Trade Commission's (FTC's) [Guidelines for the Use of Environmental Marketing Terms](#). The State of New York reserves the right to require the Contractor to remove any environmental claims that are false, vague, misleading or unsubstantiated in catalogs, price sheets, websites or other marketing materials that are provided to the Authorized User under this Contract.

C. Verification of Contractor Compliance with GreenNY Requirements and Other Environmental Claims

At the request of OGS or the Authorized User, Contractor must provide verification of Product and packaging compliance with GreenNY specifications, required third-party certification(s), minimum amount of recycled content, or other environmental attributes required in the Contract. OGS and the Authorized User also reserve the right to request information documenting the Product and packaging desirable attributes and other Contractor environmental claims. The following types of verification documentation will be accepted:

- Third-party certification
- Product test results
- Compliance certification or affidavit signed by the manufacturer
- Other acceptable documentation as approved by OGS or the Authorized User

2.26 Consumer Products Containing Mercury

Contractor shall comply with the requirements of Title 21 of Article 27 of the NYS Environmental Conservation Law regarding restrictions on the sale, purchasing, labeling and management of any Products containing elemental mercury under this Piggyback Contract.

2.27 Diesel Emission Reduction Act

Pursuant to N.Y. Environmental Conservation Law § 19-0323 (the "Law"), it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology ("BART") and ultra-low sulfur diesel fuel ("ULSD"). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State Agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State Agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by Contractors "on behalf of" State Agencies and public authorities and require certain reports from Contractors. All heavy duty diesel vehicles must have BART by the deadline provided in the Law. The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Contractor hereby certifies and warrants that all heavy duty vehicles, as defined in the Law, to be used under this Contract, will comply with the specifications and provisions of the Law, and 6 NYCRR Parts 248 and 249.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

2.28 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

In accordance with Section 889 of the National Defense Authorization Act (NDAA) for fiscal year 2019, under this Contract or subcontract thereunder, Contractor or Subcontractor shall not provide to the State or Authorized User any equipment, system, or service that uses covered telecommunications equipment or services, as defined by the NDAA, as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception applies or the covered telecommunications equipment or services are covered by a waiver, as set forth in the NDAA and the rules and regulations promulgated thereunder.

2.29 Overlapping Contract Products

Products/services available under this Piggyback Contract may also be available from other New York State Contracts. Authorized Users will be advised to select the most cost-effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

2.30 NYS Vendor Responsibility

The Contractor shall at all times during the Piggyback Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS, 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.

The Commissioner of OGS, in his or her sole discretion, reserves the right to suspend any or all activities under this Piggyback Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Activity under the Piggyback Contract may resume at such time as the Commissioner of OGS issues a written notice authorizing a resumption of performance under the Piggyback Contract.

The Contractor agrees that if it is found by the State that Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Piggyback Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Piggyback Contract may be terminated by the Commissioner of OGS at the Contractor's expense where the Contractor is determined by the Commissioner of OGS to be non-responsible. In such event, the Commissioner of OGS may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Piggyback Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

2.31 "OGS or Less" Guidelines

Purchases of the Products included in the Piggyback Contract are subject to the "OGS or Less" provisions of State Finance Law § 163(3)(a)(v). This means that State Agencies can purchase Products from sources other than the Contractor provided that such Products are substantially similar in form, function or utility to the Products herein and are (1) lower in price and/or (2) available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-Contract savings at least two (2) business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

Contract Reporter, prior approval of the Office of the State Comptroller and competitive bidding of requirements exceeding the discretionary threshold. State Agencies should refer to Procurement Council Guidelines for additional information.

2.32 Non-State Agencies Participation in Centralized Contracts

New York State political subdivisions and others authorized by New York State law may participate in Centralized Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B *Participation in Centralized Contracts*. For Purchase Orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have delivery locations adjacent to New York State), the terms of the *Price* clause shall be modified to include delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. A list of categories of eligible entities is available on the OGS web site (<https://ogs.ny.gov/procurement/nys-laws-extending-use-state-centralized-contracts>). Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to NYS Procurement Services Customer Services at 518-474-6717.

2.33 Resellers**A. Definitions**

"Reseller" shall refer to alternate distribution sources (distributors or dealers) for a manufacturer that are authorized and designated by said manufacturer, subject to approval by New York State.

B. Conditions of Reseller Participation

Resellers must be approved in advance by the State as a condition of eligibility under the Contract. The State also reserves the right to rescind any such participation or request that Contractor name additional Resellers, in the best interests of the State, at the State's sole discretion, at any time. Contractor shall have the right to qualify Resellers and their participation under this Contract by product line, contracting program (e.g., government/educational sales), geographic region, size/sales volume, technical training or other criteria ("qualifying criteria"), provided that:

1. such qualifying criteria are uniformly applied to all potential Resellers based upon Contractor's established, neutrally applied commercial/governmental program criteria, and not to a particular procurement;
2. all general categories of qualifying criteria must be disclosed by the Contractor to the State, in advance, at the beginning of the Contract term;
3. those qualifying criteria met by the Reseller must be identified in Reseller designations Attachment 4 – *Contractor and Reseller/Distributor Information* at the time that Reseller approval is requested; and
4. Immediate advance notice is provided to OGS in the event that a change in Reseller's status occurs during the Contract term. In addition to notification, if the Contract has goals, Contractors MUST submit to OGS a completed MWBE 100 EVERY TIME they add or remove a reseller that has been certified by NYS as an MWBE.

All Resellers who have been approved in accordance with the foregoing paragraph shall be eligible to quote lower pricing for procurements under this Contract which meet their qualifying criteria. Contractor warrants and represents that it shall not, directly or indirectly, by agreement, communication or any other means, restrict any Reseller's participation or ability to quote a particular order.

C. Designation of Resellers

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

When Resellers are submitted for approval, Contractor must provide the State, in advance, with all necessary ordering information, billing addresses and Federal Identification numbers in the format requested in Attachment 4 – *Contractor and Reseller/Distributor Information*. Contractor shall also specify whether orders must be placed directly with Contractor, or may be placed directly with designated Resellers.

D. Responsibility for Reporting/Performance

Contractor shall be fully liable for a Reseller's performance and compliance with all Contract terms and conditions. Product purchased through a Reseller must be reported by Contractor in the required quarterly sales reports to the State as a condition of payment. In addition to inclusion of Reseller volume in the Contractor's sales reporting obligation to the State, at the request of an Authorized User, the Reseller shall provide the Authorized User with reports of the individual Authorized User's Contract activity with the Reseller.

E. Applicability of Contract Terms

Product ordered directly through Resellers shall be limited to Products previously approved for inclusion under this Contract and shall be subject to all terms and conditions of this Contract as a condition of Reseller participation.

2.34 New Accounts

Contractor may ask State Agencies and other Authorized Users to provide information in order to facilitate the opening of a customer account, including documentation of eligibility to use New York State Contracts, agency code, name, address, and contact person. State Agencies shall not be required to provide credit references.

2.35 Contract Modifications**A. Piggyback Contract Modifications**

Any modifications to this Piggyback Contract, must be made by an instrument in writing executed by the Parties, and subject to approval by OSC.

B. Master Contract Modifications

Contractor shall submit copies of any modifications to the Master Contract terms and conditions to OGS for review prior to enactment. Subject to approval by OSC, if required, OGS may accept a modification to the Master Contract in full. If the Master Contract modification requires a modification to this Contract, it shall be made in accordance with Paragraph A above. See Section 2.6 *Price and Product Updates* above, for modifications to the Master Contract pricelist.

C. Authorized Users

An Authorized User shall not have the authority to accept any requests for modifications to the Piggyback Contract, which must be handled as outlined in Paragraph A of this section. However, in accordance with Appendix B *Modification of Contract Terms*, in a specific transaction an Authorized User shall have the authority to accept an offer from Contractor for more advantageous terms and pricing than those provided under this Piggyback Contract.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

2.36 Contract Documents; Electronic Format

OGS requires Contractor to submit all documents to OGS in an electronic format, including electronic copies of documents that require original signatures. Documents requested by OGS should be submitted in the format specified by OGS, which may include a requirement for an electronic signature that has been generated by software (e.g., DocuSign or Adobe Acrobat Sign). Contractor is responsible for retaining all copies and originals (if applicable) of documents submitted to OGS for the term of the Contract and any extensions thereof, and for a period of six (6) years after the term of the contract has ended. This requirement includes both electronic documents, and original paper documents with required original signatures that have been scanned and submitted electronically. Contractor shall submit such retained documents to OGS upon request. If Contractor seeks to assign the Contract during the term, Contractor shall provide all documents relating to the bid and Contract that it has retained to the successor Contractor (transferee/assignee) upon OGS consent to the assignment.

2.37 Instruction Manuals

At the time of delivery, Contractor shall provide a complete instruction manual for the Product and for each component supplied, as applicable, to the Authorized User.

2.38 Embedded Software/Firmware Updates

Contractor shall provide at no charge all updates to any embedded software or firmware in the Product offered to customers generally.

3. General Provisions**3.1 Notices**

Unless otherwise provided in the Contract, notices, demands, designations, certificates, requests, offers, consents, approvals, and other instruments ("Notices") given pursuant to this Contract shall be in writing to the Parties' respective representative and shall be validly given when e-mailed, mailed by registered or certified mail, or hand delivered.

The Parties may, from time to time, specify any address for purpose of notices under this Contract by giving fifteen (15) days written notice to the other party. The Parties agree to mutually designate individuals as their respective representatives for purposes of this Contract. Contact information for the designated individuals will be set forth on the Contract Award Notification (CAN) and on the Contractor Information page for this Contract, which will be posted on the OGS website.

3.2 Captions

The captions contained in this Piggyback Contract are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

3.3 Severability

If any provision of this Piggyback Contract is deemed invalid or unenforceable, such determination shall have no effect on the balance of the Piggyback Contract, which shall be enforced and interpreted as if such provision was never included in the Piggyback Contract.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

3.4 Counterparts

This Piggyback Contract may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Contract. Any signature page of any such counterpart may be attached or appended to any counterpart to complete a fully executed counterpart of this Contract, and shall bind such party.

3.5 Entire Agreement

This Piggyback Contract and the referenced appendices and attachments constitute the entire agreement between the Parties hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid, and the Piggyback Contract shall not be changed, modified or altered in any manner except as provided in Section 2.35 of this Piggyback Contract, *Contract Modifications*.

GROUP 40625, Award PGB-23345 – HEAVY EQUIPMENT (STATEWIDE)

IN WITNESS WHEREOF, the Parties have executed this Piggyback Contract as of the date last written below, and the Piggyback Contract shall become effective and binding on the date of OSC approval. The Parties further hereby certify that original copies of this executed and approved signature page will be affixed, upon final approval, to exact copies of this Piggyback Contract being executed simultaneously herewith. The acknowledgment must be fully and properly executed by an authorized person. By signing, you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this Piggyback Contract, Appendix A *Standard Clauses For New York State Contracts*, June 2023, Appendix B *General Specifications*, April 2016, and State Finance Law § 139-j and § 139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, Contractor affirms that it understands and agrees to comply with the OGS procedures relative to permissible contacts as required by State Finance Law § 139-j(3) and § 139-j(6)(b).

CONTRACTOR

Signature: 
DocuSigned by: 7FCBBD1BF7F04C0...

Printed Name: Amy Swett

Title: Government Fleet Sales Manager

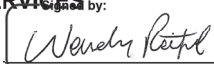
Date: 5/11/2026 | 10:01 AM EDT

Company Name: CNH Industrial America LLC

Federal ID: 76-0433811

NYS Vendor ID: 1100123548

**THE PEOPLE OF THE STATE OF NEW YORK,
ACTING BY AND THROUGH THE COMMISSIONER
OF GENERAL SERVICES**

Signature: 
DocuSigned by: 8CBDEB164370465...

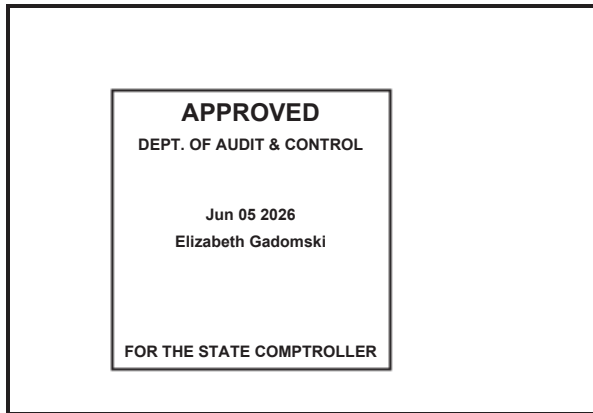
Printed Name: Wendy Reitzel

Title: Director

Date: 5/11/2026 | 10:34 AM EDT

Office of General Services

**NEW YORK STATE OFFICE OF THE STATE
COMPTROLLER**



Certificate Of Completion

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Source Envelope:	
Document Pages: 20	Signatures: 2
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Eric Burke
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	Eric.Burke@ogs.ny.gov
	IP Address: 161.11.160.96

Record Tracking

Status: Original	Holder: Eric Burke	Location: DocuSign
4/24/2026 1:39:58 PM	Eric.Burke@ogs.ny.gov	
Security Appliance Status: Connected	Pool: FedRamp	

Signer Events

Amy Swett
 Amy.Swett@newholland.com
 Government Fleet Sales Manager
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

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 Signature Adoption: Pre-selected Style
 Using IP Address: 134.238.187.98

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 Viewed: 5/1/2026 9:58:34 AM
 Signed: 5/1/2026 10:01:29 AM

Electronic Record and Signature Disclosure:
 Not Offered via Docusign

Wendy Reitzel
 Wendy.Reitzel@ogs.ny.gov
 Director
 Security Level: Email, Account Authentication (None)

Signed by:

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 Signature Adoption: Uploaded Signature Image
 Using IP Address: 161.11.160.96

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 Signed: 5/11/2026 10:34:53 AM

Electronic Record and Signature Disclosure:
 Not Offered via Docusign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Ruth Quezada
 Ruth.Quezada@ogs.ny.gov
 Assistant Director
 Security Level: Email, Account Authentication (None)

COPIED

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Electronic Record and Signature Disclosure:
 Not Offered via Docusign

Carbon Copy Events	Status	Timestamp
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Shannon Prica-Kast Shannon.Prica-Kast@ogs.ny.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div style="border: 2px solid blue; padding: 5px; display: inline-block;">COPIED</div>	Sent: 5/11/2026 10:34:55 AM

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	5/11/2026 10:34:53 AM
Completed	Security Checked	5/11/2026 10:34:55 AM

Payment Events	Status	Timestamps
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APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

TABLE OF CONTENTS

	Page
1. Executory Clause	3
2. Non-Assignment Clause	3
3. Comptroller's Approval	3
4. Workers' Compensation Benefits	3
5. Non-Discrimination Requirements	3
6. Wage and Hours Provisions	3-4
7. Non-Collusive Bidding Certification	4
8. International Boycott Prohibition	4
9. Set-Off Rights	4
10. Records	4
11. Identifying Information and Privacy Notification	4
12. Equal Employment Opportunities For Minorities and Women	5
13. Conflicting Terms	5
14. Governing Law	5
15. Late Payment	5
16. No Arbitration	5
17. Service of Process	5
18. Prohibition on Purchase of Tropical Hardwoods	5-6
19. MacBride Fair Employment Principles	6
20. Omnibus Procurement Act of 1992	6
21. Reciprocity and Sanctions Provisions	6
22. Compliance with Breach Notification and Data Security Laws	6
23. Compliance with Consultant Disclosure Law	6
24. Procurement Lobbying	7
25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors	7
26. Iran Divestment Act	7
27. Admissibility of Contract	7

STANDARD CLAUSES FOR NYS CONTRACTS

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, licenser, 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, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) 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 \$25,000, 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, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

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, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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.

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 (2 NYCRR § 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 Part 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 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 clause. 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.

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 and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

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 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) 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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 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 §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 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.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 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: <https://ogs.ny.gov/iran-divestment-act-2012>

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.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

APPENDIX B
GENERAL SPECIFICATIONS

TABLE OF CONTENTS

<u>GENERAL</u>	<u>PAGE</u>	<u>TERMS & CONDITIONS (CONT.)</u>	<u>PAGE</u>
1. Ethics Compliance	1	34. Title and Risk of Loss for Products Other than Technology Products	7
2. Definitions	1	35. Product Substitution	8
<u>BID SUBMISSION</u>		36. Rejected Product	8
3. International Bidding	3	37. Installation	8
4. Bid Opening	3	38. Repaired or Replaced Products, Parts, or Components	8
5. Late Bids	3	39. Employees, Subcontractors and Agents	8
6. Confidential/Trade Secret Materials	3	40. Assignment	8
7. Prevailing Wage Rates - Public Works and Building Services Contracts	3	41. Subcontractors and Suppliers	8
8. Taxes	4	42. Suspension of Work	8
9. Expenses Prior to Contract Execution	4	43. Termination	9
10. Product References	4	44. Savings/Force Majeure	9
11. Remanufactured, Recycled, Recyclable, or Recovered Materials	4	45. Contract Invoicing	10
12. Products Manufactured in Public Institutions	4	46. Default - Authorized User	10
13. Pricing	4	47. Prompt Payments	10
14. Site Inspection	5	48. Remedies for Breach	10
15. Purchasing Card	5	49. Assignment of Claim	11
<u>BID EVALUATION</u>		50. Toxic Substances	11
16. Bid Evaluation	5	51. Independent Contractor	11
17. Tie Bids	5	52. Security	11
18. Quantity Changes Prior to Award	5	53. Cooperation with Third Parties	11
19. Timeframe for Offers	5	54. Warranties	11
20. Debriefings	5	55. Legal Compliance	12
21. Contract Publicity	5	56. Indemnification	12
<u>TERMS & CONDITIONS</u>		57. Indemnification Relating to Infringement	13
22. Contract Creation/Execution	6	58. Limitation of Liability	13
23. Contract Term – Extension	6	59. Dispute Resolution Procedures	13
24. Official Use Only/No Personal Use	6	<i>To the extent the scope of the Solicitation or Contract includes the sale, development, maintenance, or use of information technology Products such as software, computer components, systems, or networks for the processing, and distribution, or storage, or storage of data, the following clauses shall govern, as applicable.</i>	
25. Participation in Centralized Contracts	6	60. Software License Grant	14
26. Modification of Contract Terms	6	61. Product Acceptance	15
27. Scope Changes	6	62. Audit of Licensed Product Usage	16
28. Estimated/Specific Quantity Contracts	6	63. No Hardstop or Passive License Monitoring	16
29. Emergency Contracts	6	64. Ownership/Title to Project Deliverables	16
30. Purchase Orders	7	65. Proof of License	17
31. Product Delivery	7	66. Changes to Product or Service Offerings	17
32. Weekend and Holiday Deliveries	7		
33. Shipping/Receipt of Product	7		

GENERAL

1. ETHICS COMPLIANCE All Bidders/Contractors and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

2. DEFINITIONS Terms used herein shall have the following meanings:

a. AUTHORIZED USER Authorized User shall have the meaning set forth in State Finance Law Section 163(1)(k) and includes, but is not limited to, New York State Agencies, political subdivisions, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations.

b. BID A response to the Solicitation submitted by a Bidder to provide Products.

c. BIDDER Any person or entity who submits a response to the Solicitation. At the time that a Bidder executes a Contract with the State, the Bidder shall become a "Contractor." See also "Contractor."

d. BID SPECIFICATIONS A written description drafted by OGS or an Authorized User setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a Product, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed Contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work. Where this Appendix B is incorporated in negotiated Contracts that have not been competitively solicited, the term "Bid Specifications" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

e. COMMISSIONER The Commissioner of OGS or his or her designee, or, in the case of Bid Specifications issued by an Authorized User, the head of such Authorized User or his or her authorized representative.

f. CONTRACT The writings that contain the agreement of the Commissioner and the Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law, and which most typically include the following classifications of public procurements:

- 1. Agency Specific Contracts** Contracts where the written description for a Product or a particular scope of work is described and defined to meet the needs of one or more Authorized Users.
- 2. Centralized Contracts** Single- or multiple-award Contracts where the written description for a Product or general scope of work is described and defined by OGS to meet the needs of Authorized Users. Centralized Contracts may be awarded through multiple awards or through adoption of another

jurisdiction's contract or on a sole source, single source, emergency, or competitive basis. Once established, procurements may be made from the selected Contractors without further competition or Mini-Bid unless otherwise required by the Contract.

3. Back-Drop Contracts Multiple-award Centralized Contracts where OGS provides a written description for a Product or general scope of work to meet the needs of Authorized Users. Bids may be submitted either at a date and time certain or may be accepted on a continuous or periodic recruitment basis, as set forth in the Solicitation. Selection of a Contractor from among Back-Drop contract holders for an actual Product, project or particular scope of work may be subsequently made as set forth in the Contract.

4. Piggyback Contract A Contract let by any department, agency or instrumentality of the United States government, or any department, agency, office, political subdivision or instrumentality of any state or group of states that is adopted and extended for use by OGS in accordance with the requirements of the State Finance Law.

5. Contract Award Letter A letter to the successful Bidder indicating acceptance of its Bid in response to a Solicitation. Unless otherwise specified, the issuance of a letter of acceptance forms a Contract but is not an order for Product, and the Contractor should not take any action with respect to actual Contract deliveries except on the basis of Purchase Orders sent from Authorized Users.

g. CONTRACT AWARD NOTIFICATION An announcement to Authorized Users that a Contract has been established.

h. CONTRACTOR Any successful Bidder to whom a Contract has been awarded by the Commissioner.

i. DOCUMENTATION The complete set of manuals (e.g., user, installation, instruction or diagnostic manuals) in either hard or electronic copy, that are necessary to enable an Authorized User to properly test, install, operate and enjoy full use of the Product.

j. ENTERPRISE The total business operations in the United States of an Authorized User without regard to geographic location where such operations are performed or the entity actually performing such operations on behalf of the Authorized User.

k. ENTERPRISE LICENSE A license grant of unlimited rights to deploy, access, use and execute Product anywhere within the Enterprise up to the maximum capacity stated on the Purchase Order or in the Contract.

l. ERROR CORRECTIONS Machine executable software code furnished by Contractor which corrects the Product so as to conform to the applicable warranties, performance standards and/or obligations of the Contractor.

m. GROUP A classification of a Product that is designated by OGS.

n. INVITATION FOR BIDS (IFB) A type of Solicitation that is most typically used for procurements where requirements can be stated and award will be made based on lowest price to the responsive and responsible Bidder or Bidders.

- o. LICENSED SOFTWARE** Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes Error Corrections, upgrades, or enhancements, and any deliverables due under a technical support/maintenance or service contract (e.g., Patches, programs, code or data conversion, or custom programming).
- p. LICENSEE** An Authorized User who acquires Product from Contractor by issuing a Purchase Order in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the individual Authorized User who took receipt of and who is executing the Product, and who shall be solely responsible for performance and liabilities incurred. In the case of acquisitions by State Agencies, the Licensee shall be the State of New York.
- q. LICENSE EFFECTIVE DATE** The date Product is delivered to an Authorized User. Where a License involves Licensee's right to copy a previously licensed and delivered master copy of a program, the License Effective Date for additional copies shall be deemed to be the date on which the Purchase Order is executed.
- r. LICENSOR** A Contractor who transfers rights in proprietary Product to Authorized Users in accordance with the rights and obligations specified in the Contract.
- s. MINI-BID** A document used by an Authorized User containing transaction-specific requirements soliciting responses from Contractors previously qualified under a Centralized Contract for such Products.
- t. OGS** The New York State Office of General Services.
- u. PATCH** Software designed to update, fix, or improve the Product or its supporting data. This includes fixing security vulnerabilities and other bugs, including hot fixes, to improve usability or performance.
- v. PRODUCTS** Items or deliverables under any Solicitation or Contract and may include commodities, services and/or technology.
- w. PURCHASE ORDER** The Authorized User's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Purchasing Card, electronic Purchase Order, or other authorized instrument).
- x. REQUEST FOR PROPOSALS (RFP)** A type of Solicitation that is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and where the award will be made based on "best value," as defined by the State Finance Law, to one or more responsive and responsible Bidders.
- y. REQUEST FOR QUOTATION (RFQ)** A procurement method that can be used in situations such as discretionary, sole source, single source, or emergency purchases and certain Centralized Contracts.
- z. RESPONSIBLE BIDDER** A Bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill, judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the Commissioner. For purposes of being deemed responsible, a Bidder must also be determined to be in compliance with Sections 139-j and 139-k of the State Finance Law relative to restrictions on contacts during the procurement process and disclosure of contacts and prior findings of non-responsibility under these statutes.
- aa. RESPONSIVE BIDDER** A Bidder meeting the specifications or requirements prescribed in the Solicitation, as determined by the OGS Commissioner.
- bb. SINGLE SOURCE** A procurement where two or more Bidders can supply the required Product, and the Commissioner may award the contract to one Bidder over the other.
- cc. SITE** The location (street address) where Product will be delivered or executed.
- dd. SOLE SOURCE** A procurement where only one Bidder is capable of supplying the required Product.
- ee. SOLICITATION** Writings by the State setting forth the scope, terms, conditions and technical specifications for a procurement of Product. The procurement may be undertaken on a competitive or non-competitive basis. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotations (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions that are incorporated by reference, including but not limited to Appendix A (Standard Clauses for NYS Contracts), Appendix B (General Specifications), and identified attachments. Where the procurement is undertaken on a non-competitive basis, the term "Solicitation" shall be deemed to refer to all the terms and conditions identified by the State.
- ff. SOURCE CODE** The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine object code.
- gg. STATE** State of New York.
- hh. STATE AGENCY OR AGENCIES** The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
- ii. SUBCONTRACTOR** Any individual or legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.
- jj. TERMS OF LICENSE** The terms and conditions set forth in the Contract that are in effect and applicable to a Purchase Order at the time of order placement.
- kk. THIRD-PARTY SOFTWARE** Any software that is developed independently of Contractor and which may be governed by a separate license.
- ll. VIRUS** Any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer. Virus shall also include any malware, adware, or other computer code, whether or not written or conceived by Contractor, that allows data or metrics to be copied, redirected, or modified without the express consent of the Authorized User.

BID SUBMISSION

3. INTERNATIONAL BIDDING All Bids, including all information and Product required by the Solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars (US\$). Any Bids submitted which do not meet the above criteria will be rejected.

4. BID OPENING Bids may, as applicable, be opened publicly. The Commissioner reserves the right at any time to postpone or cancel a scheduled Bid opening.

5. LATE BIDS Bids must be received at the location designated in the Solicitation at or before the date and time established in the Solicitation for the Bid opening or receipt of Bids.

Any Bid received at the designated location after the established time will be considered a Late Bid. A Late Bid may be rejected and disqualified from award. Notwithstanding the foregoing, a Late Bid may be accepted in the Commissioner's sole discretion where (i) no timely Bids meeting the requirements of the Solicitation are received, (ii) in the case of a multiple award, an insufficient number of timely Bids are received to satisfy the multiple award, or (iii) the Bidder has demonstrated to the satisfaction of the Commissioner that the Late Bid was caused solely by factors outside the control of the Bidder. However, in no event shall the Commissioner be under any obligation to accept a Late Bid.

The basis for any determination to accept a Late Bid shall be documented in the procurement record.

6. CONFIDENTIAL/TRADE SECRET MATERIALS

a. BIDDER/CONTRACTOR Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Bidder/Contractor. Marking the Bid as "confidential" or "proprietary" on its face or in the document header or footer shall not be considered by the Commissioner or Authorized User to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder/Contractor. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. The Commissioner's or Authorized User's receipt/acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder/Contractor will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and federal laws.

b. COMMISSIONER OR AUTHORIZED USER Contractor warrants, covenants and represents that any confidential information obtained by Contractor, its agents, Subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the State or any Authorized User hereunder or received from another third party, will not be divulged to any third parties without the written consent of the Commissioner or Authorized User. Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information

of the Authorized User, or otherwise obtained under the Freedom of Information Law or other applicable New York State laws and regulations. This warranty shall survive termination of this Contract. Contractor further agrees to take commercially reasonable steps to inform its agents, Subcontractors, officers, distributors, resellers or employees of the obligations arising under this clause to ensure such confidentiality.

7. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS If any portion of work being solicited is subject to the prevailing wage rate provisions of the Labor Law, the following shall apply:

a. PREVAILING WAGE RATE APPLICABLE TO BIDS A copy of the applicable prevailing wage rate schedule is incorporated into the Solicitation and may also be obtained by visiting www.labor.ny.gov and typing in the search box: Prevailing Wage Schedule Request. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (e.g., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or exceed the applicable prevailing wage rates for the location where the work is to be performed. Bidders may not submit Bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. Bids that fail to comply with this requirement will be disqualified.

b. WAGE RATE PAYMENTS/CHANGES DURING CONTRACT TERM The wages to be paid under any resulting Contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is required that the Contractor keep informed of all changes in the prevailing wage rates during the Contract term that apply to the classes of individuals supplied by the Contractor on any projects resulting from this Contract, subject to the provisions of the Labor Law. Contractor is solely liable for and must pay such required prevailing wage adjustments during the Contract term for its employees as required by law and is responsible for ensuring any Subcontractors utilized on the Contract also comply with the prevailing wage provisions of the New York State Labor Law.

c. ARTICLE 8 CONSTRUCTION/PUBLIC WORKS CONTRACTS In compliance with Article 8, Section 220 of the New York State Labor Law:

i. Posting The Contractor must publicly post on the work Site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

ii. Payroll Records Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over \$25,000 where the Contractor maintains no regular place of business in the State, such records must be kept at the work Site. For building services contracts, such records must be kept at the work Site while work is being performed.

iii. Submission of Certified Payroll Transcripts for Public Works Contracts Only Contractors and Subcontractors on public works Contracts must submit monthly payroll transcripts to the Authorized User issuing the Purchase Order for the work. This provision does not apply to Article 9 of the Labor Law building services contracts.

iv. Day's Labor No laborers, workmen or mechanics in the employ of the Contractor, Subcontractor or other person doing or

contracting to do all or part of the work contemplated by the Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five calendar days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. "Extraordinary emergency" shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the NYS Commissioner of Labor for the preservation of the Contract Site or for the protection of the life and limb of the persons using the Contract Site.

d. ARTICLE 9 BUILDING SERVICES CONTRACTS In compliance with Article 9, Section 230 of the New York State Labor Law:

i. Payroll Records Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. Where the Contractor or Subcontractor maintains no regular place of business in New York State, such records must be kept at the work Site while work is being performed.

ii. Overtime Employees of Contractors and Subcontractors who work in excess of eight hours in a day or forty hours in a week shall be paid at the overtime rate identified by the New York State Department of Labor.

8. TAXES

a. Unless otherwise specified in the Solicitation, Bid Specifications or Contract, the quoted Bid price includes all taxes applicable to the transaction.

b. Purchases made by the State of New York and certain non-State Authorized Users are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State sales tax exemption, either the Purchase Order issued by a State Agency or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the Contractor was made to the State, an exempt organization under Section 1116(a)(1) of the Tax Law. Non-State Authorized Users must offer their own proof of exemption upon request. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

c. Purchases by Authorized Users other than the State of New York may be subject to certain taxes which were not included in the Bid price, and in those instances the tax should be computed based on the Contract price and added to the invoice submitted to such entity for payment.

9. EXPENSES PRIOR TO CONTRACT EXECUTION The Commissioner and any Authorized Users are not liable for any costs incurred by a Bidder or Contractor in the preparation and production of a Bid, Mini-Bid, cost proposal revision, or for any work performed prior to Contract execution.

10. PRODUCT REFERENCES

a. "Or Equal" In all Solicitations or Bid Specifications, the words "or equal" are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced.

References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Commissioner's decision as to acceptance of the Product as equal shall be final.

b. Discrepancies in References In the event of a discrepancy between the model number referenced in the Solicitation or Bid Specifications and the written description of the Products that cannot be reconciled, then the written description shall prevail.

11. REMANUFACTURED, RECYCLED, RECYCLABLE, OR RECOVERED MATERIALS Upon the conditions specified in the Solicitation and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable, or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements, or in the Solicitation. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product unless such use is precluded due to health, welfare, safety requirements, or by the Solicitation. Where such use is not practical, suitable, or permitted by the Solicitation, Contractor shall deliver new materials in accordance with the "Warranties" set forth below.

Items with recycled, recyclable, recovered, refurbished, or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

12. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS

Bids offering Products that are manufactured or produced in public institutions will be rejected.

13. PRICING

a. Unit Pricing If required by the Solicitation, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places, for each item unless otherwise specified in the Solicitation. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the Commissioner, such unit pricing is obviously erroneous.

b. Net Pricing Unless otherwise required by the Solicitation, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination indicated in the Solicitation or Purchase Order.

c. "No Charge" Bid When Bids are requested on a number of Products as a Group or lot, a Bidder desiring to Bid "no charge" on a Product in the Group or lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the Commissioner.

d. Educational Pricing All Products to be supplied for educational purposes that are subject to educational discounts shall be identified in the Bid and such discounts shall be made available to qualifying institutions.

e. Third Party Financing If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract award to agree to the terms and conditions of a

“Consent & Acknowledgment Agreement” in a form acceptable to the Commissioner.

f. Specific price decreases:

(i) **GSA Changes:** Where net pricing under the Contract is based on an approved GSA schedule, price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after the date the approved GSA schedule pricing decreases during the Contract term; or

(ii) **Commercial Price List Reductions:** Where net pricing under the Contract is based on a discount from Contractor’s list prices, price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after the date Contractor lowers its pricing on its commercial price lists during the Contract term; or

(iii) **Special Offers/Promotions Generally:** Where Contractor generally offers more advantageous special price promotions or special discount pricing to other customers during the Contract term for a similar quantity, and the maximum price or discount associated with such offer or promotion is better than the discount or net pricing otherwise available under this Contract, such better price or discount shall apply for similar quantity transactions under this Contract for the life of such general offer or promotion; and

(iv) **Special Offers/Promotions to Authorized Users:** Contractor may offer Authorized Users, under either this Contract or any other contracting vehicle, competitive pricing which is lower than the net pricing set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (iii).

Unless otherwise specified in the Solicitation, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order from any Authorized User without being in conflict with, or having any obligation to comply on a global basis with, the terms of this clause.

g. Cost Proposal Revisions A Contractor may be solicited prior to Contract award to propose the best possible offer for the Product being bid on, in accordance with State Finance Law Section 163(9)(c). A cost proposal revision must be a lower price than the initial price.

14. SITE INSPECTION Where a Site inspection is required, Bidder shall be required to inspect the Site, including environmental or other conditions, for pre-existing deficiencies that may affect the installed Product or that may affect Bidder’s ability to properly deliver, install or otherwise provide the required Product. All inquiries regarding such conditions shall be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions that such inspection or inquiry might have disclosed. Bidder must provide a detailed explanation with its Bid if additional work is required under this clause in order to properly provide the required Product.

15. PURCHASING CARD The State’s Purchasing Card program is designed to be an efficient and cost effective way to expedite purchases. The Purchasing Card (also referred to as the Procurement Card) is a credit card that enables Authorized Users to make authorized purchases directly from a Contractor without processing formal Purchase Orders. Purchasing Cards are issued to selected employees who are authorized to make purchases for the Authorized

User. Cardholders can make purchases directly from any Contractor that accepts the Purchasing Card.

BID EVALUATION

16. BID EVALUATION The Commissioner reserves the right to accept or reject any and all Bids, or separable portions of Bids, and waive technicalities, irregularities, and omissions if the Commissioner determines the best interests of the State will be served. The Commissioner, in his or her sole discretion, may accept or reject illegible, incomplete or vague Bids, and the Commissioner’s decision shall be final. A conditional or revocable Bid which clearly communicates the terms or limitations of acceptance may be considered, and Contract award may be made in compliance with the Bidder’s conditional or revocable terms in the Bid.

17. TIE BIDS In the event two Bids are found to be substantially equivalent, price shall be the basis for determining the award recipient. While prompt payment discounts will not be considered in determining the low Bid, the Commissioner may consider any prompt payment discount in resolving Bids which are otherwise tied. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of the Commissioner to award a Contract to one or more of such Bidders shall be final.

18. QUANTITY CHANGES PRIOR TO AWARD The Commissioner reserves the right, at any time prior to the award of a specific quantity Contract, to alter in good faith the quantities listed in the Solicitation. In the event such right is exercised, the lowest responsible Bidder meeting the Solicitation requirements will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.

19. TIMEFRAME FOR OFFERS The Commissioner reserves the right to make awards within 60 days after the date of the Bid opening or such other period of time as set forth in the Solicitation. The Bids must remain firm until a Contract is awarded, but if a Contract is not awarded within 60 days or other time period set forth in the Solicitation, the Bidder may withdraw its Bid any time thereafter by delivering to the Commissioner written notice of the withdrawal of its Bid.

20. DEBRIEFINGS Pursuant to Section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within 15 calendar days of notification by OGS that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to a designated contact identified in the Solicitation.

21. CONTRACT PUBLICITY Any Contractor press or media releases, advertisements, or promotional literature, regardless of the medium, referring to an awarded Contract must be reviewed and approved by the Commissioner prior to issuance. In addition, Contractor shall not use, for any purpose, the New York State of Opportunity registered trademark or the New York State coat of arms without prior written approval from the State.

TERMS & CONDITIONS

22. CONTRACT CREATION/EXECUTION Except for contracts governed by Article 11-B of the State Finance Law, subject to and upon receipt of all required approvals as set forth in the Solicitation, a Contract shall be deemed executed and created with the successful Bidders upon the Commissioner's mailing or electronic communication to the address on the Bid/Contract of: (i) the final Contract Award Notice; (ii) a fully executed Contract; or (iii) a Purchase Order authorized by the Commissioner.

23. CONTRACT TERM - EXTENSION In addition to any stated extension periods in the Contract, any Contract or portion thereof awarded by the Commissioner may be extended by mutual agreement of the Commissioner and the Contractor for an additional period of up to one year. Such extension for up to an additional one-year period may be exercised on a month-to-month basis or in other stated periods of time.

24. OFFICIAL USE ONLY/NO PERSONAL USE The Contract is only for official use by Authorized Users. Use of the Contract for personal or private purposes is strictly prohibited.

25. PARTICIPATION IN CENTRALIZED CONTRACTS

a. State Agencies All State Agencies may utilize and purchase under any Centralized Contract let by the Commissioner, unless the Solicitation limits purchases to specific State Agencies.

b. Non-State Agency Authorized Users Authorized Users other than State Agencies are permitted to make purchases through Centralized Contracts where permitted by law, the Contract or the Commissioner.

c. Voluntary Extension Purchase Orders issued against a Centralized Contract by any Authorized User not provided for in the Contract shall be honored by the Contractor at its discretion and only with the approval of the OGS Commissioner and any other approvals required by law.

d. Responsibility for Performance Participation in Centralized Contracts by Authorized Users is permitted upon the following conditions: (i) the responsibility with regard to performance of any contractual obligation, covenant, condition or term thereunder by any Authorized User other than State Agencies shall be borne and is expressly assumed by such Authorized User and not by the State; (ii) a breach of the Contract by any particular Authorized User shall neither constitute nor be deemed a breach of the Contract as a whole which shall remain in full force and effect, and shall not affect the validity of the Contract nor the obligations of the Contractor thereunder respecting non-breaching Authorized Users, whether State or otherwise; (iii) for a breach by an Authorized User other than a State Agency, the State specifically and expressly disclaims any and all liability for such breach; and (iv) each non-State Agency Authorized User and Contractor guarantees to hold the State, its officers, agents and employees harmless from any liability that may be or is imposed by the non-State Agency Authorized User's or Contractor's failure to perform in accordance with its obligations under the Contract.

e. Contract Migration Authorized Users holding individual Contracts with a Contractor at the time that Contractor is awarded a Centralized Contract for the same Products shall be permitted to migrate to that Centralized Contract effective with its commencement date. Such migration shall not operate to diminish, alter or eliminate

any right that the Authorized User otherwise had under the terms and conditions of their individual Contract.

26. MODIFICATION OF CONTRACT TERMS The terms and conditions set forth in the Contract shall govern all transactions by Authorized Users under this Contract. The Contract may only be modified or amended upon mutual written agreement of the Commissioner and Contractor.

The Contractor may, however, offer any Authorized User more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Authorized User and Commissioner by the Contractor at the time of such offer.

Other than where such terms are more advantageous for the Authorized User than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against an Authorized User unless authorized by the Commissioner or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed order forms, product literature, "shrink wrap" terms accompanying software upon delivery, or other documents) or by incorporating such terms onto order forms, Purchase Orders or other documents forwarded by the Contractor for payment, notwithstanding Authorized User's subsequent acceptance of Product, or that Authorized User has subsequently processed such document for approval or payment.

27. SCOPE CHANGES The Commissioner reserves the right to require, by written order, changes to the scope of the Contract, provided that such changes do not materially alter the general scope of the Contract. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under the Contract, whether or not changed by the order, the Commissioner shall, upon notice from Contractor as hereafter stated, make an equitable adjustment in the Contract price, the delivery schedule or both and shall modify the Contract. The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Commissioner decides that the facts justify it, the Commissioner may provide an adjustment without receipt of a notice from Contractor. In the event of a dispute between the Contractor and the Commissioner, such dispute shall be resolved in accordance with the OGS Dispute Resolution Procedures; provided, however, that nothing in this clause shall excuse the Contractor from proceeding with the Contract as changed.

28. ESTIMATED/SPECIFIC QUANTITY CONTRACTS

Estimated quantity contracts, also referred to as indefinite delivery/indefinite quantity contracts, are expressly agreed and understood to be made for only the quantities, if any, actually ordered during the Contract term. No guarantee of any quantity is implied or given.

With respect to any specific quantity stated in the Contract, the Commissioner reserves the right after award to order up to 20% more or less (rounded to the next highest whole number) than the specific quantities called for in the Contract. Notwithstanding the foregoing, the Commissioner may purchase greater or lesser percentages of Contract quantities should the Commissioner and Contractor so agree. Such agreement may include an equitable price adjustment.

29. EMERGENCY CONTRACTS In the event that a disaster emergency is declared by Executive Order under Section 28 of Article

2-B of the Executive Law, or the Commissioner determines pursuant to his or her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of Product, the Commissioner reserves the right to obtain such Product from any source, including but not limited to this Contract, as the Commissioner in his or her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim for lost profits for Product procured from other sources pursuant to this clause. The reasons underlying the finding that an emergency exists shall be included in the procurement record.

30. PURCHASE ORDERS Unless otherwise authorized in writing by the Commissioner, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Authorized User. Unless terminated or cancelled pursuant to the authority vested in the Commissioner, Purchase Orders shall be effective and binding upon the Contractor (i) in the case of formal written Purchase Orders, when placed in the mail prior to the termination of the Contract and addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification or (ii) in the case of electronic Purchase Orders or Purchasing Card purchases, when electronically transmitted to the Contractor prior to the termination of the Contract.

All Purchase Orders issued pursuant to a Contract let by the Commissioner must be identified with the appropriate Contract number and, if necessary, required State approvals. As deemed necessary, the Authorized User may confirm pricing and other Product information with the Contractor prior to placement of the Purchase Order. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to complete any Purchase Order placed under the Contract. Unless otherwise specified, all Purchase Orders against Centralized Contracts will be placed by Authorized Users directly with the Contractor and any discrepancy between the terms stated on the Contractor's order form, confirmation or acknowledgment, and the Contract terms shall be resolved in favor of the terms most favorable to the Authorized User. Should an Authorized User add written terms and conditions to the Purchase Order that conflict with the terms and conditions of the Contract, the Contractor has the option of rejecting the Purchase Order within five business days of its receipt but shall first attempt to negotiate the additional written terms and conditions in good faith with the Authorized User, or fulfill the Purchase Order. Notwithstanding the above, the Authorized User reserves the right to dispute any discrepancies arising from the presentation of additional terms and conditions with the Contractor.

If, with respect to an Agency Specific Contract let by the Commissioner, a Purchase Order is not received by the Contractor within two weeks after the issuance of a Contract Award Notification, it is the responsibility of the Contractor to request in writing that the appropriate Authorized User forward a Purchase Order. If, thereafter, a Purchase Order is not received within a reasonable period of time, the Contractor shall promptly notify in writing the appropriate purchasing officer in OGS. Failure to timely notify such officer may, in the discretion of the OGS Commissioner and without cost to the State, result in the cancellation of such requirement by the OGS Commissioner with a corresponding reduction in the Contract quantity and price.

31. PRODUCT DELIVERY Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract. Delivery shall be made within 30 calendar days after receipt of a Purchase Order by the Contractor, unless otherwise agreed to by the Authorized User and the Contractor. The decision of

the Commissioner as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of a Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Commissioner and the Authorized User, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by the Authorized User. If compliance with the delivery time schedule is a material term of the Contract, failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Commissioner's discretion, the Contract.

32. WEEKEND AND HOLIDAY DELIVERIES Unless otherwise specified in the Contract or by an Authorized User, deliveries will be scheduled for ordinary business hours, Monday through Friday (excluding legal holidays observed by the State of New York). Deliveries may be scheduled by mutual agreement for Saturdays, Sundays or legal holidays observed by the State of New York where the Product is for daily consumption, an emergency exists, the delivery is a replacement, delivery is late, or other reasonable circumstance in which event the convenience of the Authorized User shall govern.

33. SHIPPING/RECEIPT OF PRODUCT

a. Packaging Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without any extra charges for packing materials, cases or other types of containers. The container shall become and remain the property of the Authorized User unless otherwise specified in the Contract documents.

b. Shipping Charges Unless otherwise stated in the Contract, all deliveries shall be deemed to be freight on board (F.O.B.) destination tailgate delivery at the dock of the Authorized User. Unless otherwise agreed, items purchased at a price F.O.B. shipping point plus transportation charges shall not relieve the Contractor from responsibility for safe and proper delivery notwithstanding the Authorized User's payment of transportation charges. Contractor shall be responsible for ensuring that the bill of lading states "charges prepaid" for all shipments.

c. Receipt of Product The Contractor shall be solely responsible for assuring that deliveries are made to the locations and/or personnel specified by the Authorized User in the Purchase Order. Any losses or delays resulting from the Contractor's failure to deliver Product to the specified locations or personnel shall be borne exclusively by the Contractor.

34. TITLE AND RISK OF LOSS FOR PRODUCTS OTHER THAN TECHNOLOGY PRODUCTS

Notwithstanding the form of shipment, title or other property interest, risk of loss for Products other than technology Products shall not pass from the Contractor to the Authorized User until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Contract or Purchase Order. Mere acknowledgment by Authorized User personnel of the delivery or receipt of goods (e.g., signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product that is substandard or does not comply with the Contract may be rejected or accepted on an adjusted price basis, as determined by the Commissioner. Title, risk of loss, and acceptance for technology Products shall be governed by the Product Acceptance clause.

35. PRODUCT SUBSTITUTION In the event a specified Product listed in the Contract becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Savings/Force Majeure clause), a Product deemed in writing by the Commissioner to be equal to or better than the specified Product must be substituted by the Contractor at no additional cost or expense to the Authorized User. Unless otherwise specified, any substitution of Product prior to the Commissioner's written approval may be cause for termination of Contract.

36. REJECTED PRODUCT When Product is rejected, it must be removed by the Contractor from the premises of the Authorized User within ten calendar days of notification of rejection by the Authorized User. Upon notification of rejection, risk of loss of rejected or non-conforming Product shall remain with Contractor. Rejected items not removed by the Contractor within ten calendar days of notification shall be regarded as abandoned by the Contractor, and the Authorized User shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Authorized User for any and all costs and expenses incurred in storage or effecting removal or disposition after the ten-calendar-day period.

37. INSTALLATION Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar the Product or render it unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the Site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or Site. Work shall be performed to cause the least inconvenience to the Authorized User and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

38. REPAIRED OR REPLACED PRODUCTS, PARTS, OR COMPONENTS Where the Contractor is required to repair, replace or substitute Product or parts or components of the Product under the Contract, the repaired, replaced or substituted Products shall be subject to all terms and conditions for new parts and components set forth in the Contract including warranties, as set forth in the Warranties clause herein. Replaced or repaired Product or parts and components of such Product shall be new and shall, if available, be replaced by the original manufacturer's component or part. Remanufactured parts or components meeting new Product standards may be permitted by the Commissioner or Authorized User. Before installation, all proposed substitutes for the original manufacturers' installed parts or components must be approved by the Authorized User. The part or component shall be equal to or of better quality than the original part or component being replaced.

39. EMPLOYEES, SUBCONTRACTORS AND AGENTS All employees, Subcontractors, or agents of the Contractor performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical, and training qualifications set forth in the Contract or the Purchase Order, and must comply with all security and administrative requirements of the Authorized User that are communicated to the Contractor. The Commissioner and the Authorized

User reserve 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 professional, technical or training qualifications, quality of work or change in security status or non-compliance with Authorized User's security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract or the Purchase Order. The Commissioner and the Authorized User reserve the right to reject and/or bar from any facility for cause any employee, Subcontractor, or agent of the Contractor.

40. ASSIGNMENT In accordance with Section 138 of the State Finance Law, the Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the Contract or its right, title or interest therein, or its power to execute such Contract to any other person, company, firm or corporation in performance of the Contract without the prior written consent of the Commissioner or Authorized User (as applicable); provided, however, any consent shall not be unreasonably withheld, conditioned, delayed or denied. The Commissioner may waive the requirement that such consent be obtained in advance where the Contractor verifies that the assignment, transfer, conveyance, sublease, or other disposition is due to, but not necessarily limited to, a reorganization, merger, or consolidation of the Contractor's business entity or enterprise.

Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignments with the State Comptroller. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, the Contractor shall submit the request for assignment to the Commissioner and seek written agreement from the Commissioner which will be filed with the State Comptroller. Commissioner shall use reasonable efforts to promptly respond to any request by Contractor for an assignment, provided that Contractor supplies sufficient information about the party to whom the Contractor proposes to assign the Contract.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the functions are transferred to a successor Agency or to another Agency that assumes OGS responsibilities for the Contract.

41. SUBCONTRACTORS AND SUPPLIERS The Commissioner reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, including, but not limited to: the company failed to solicit New York State certified minority- and women-owned business enterprises as required in prior OGS Contracts; the fact that such Subcontractor or supplier is on the New York State Department of Labor's list of companies with which New York State cannot do business; the Commissioner's determination that the company is not qualified or is not responsible; or the fact that the company has previously provided unsatisfactory work or services.

42. SUSPENSION OF WORK The Commissioner, in his or her sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, in the best interests of the Authorized User. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or reduction in State spending, declaration of emergency, contract compliance issues or other circumstances. Upon

issuance of such notice, the Contractor is not to accept any Purchase Orders, and shall comply with the suspension order. Activity may resume at such time as the Commissioner issues a formal written notice authorizing a resumption of performance under the Contract.

An Authorized User may issue a formal written notice for the suspension of work for which it has engaged the Contractor for reasons specified in the above paragraph. The written notice shall set forth the reason for such suspension and a copy of the written notice shall be provided to the Commissioner.

43. TERMINATION

a. For Cause For a material breach that remains uncured for more than 30 calendar days or other longer period as specified by written notice to the Contractor, the Contract or Purchase Order may be terminated by the Commissioner or Authorized User respectively. Neither the State nor an Authorized User shall be liable for any of Contractor's costs arising from the failure to perform or the termination, including without limitation costs incurred after the date of termination. Such termination shall be upon written notice to the Contractor. In such event, the Commissioner or Authorized User may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

b. For Convenience This Contract may be terminated at any time by the Commissioner for convenience upon 60 calendar days or other longer period as specified by written notice, without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, the Authorized User shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and fulfill any outstanding Purchase Orders.

c. For Violation of Sections 139-j and 139-k of the State Finance Law The Commissioner reserves the right to terminate the Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise his or her termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

d. For Violation of Section 5-a of the New York State Tax Law The Commissioner reserves the right to terminate the Contract in the event it is found that the certification filed by the Contractor in accordance with Section 5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise his or her termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

e. For Non-Responsibility The Bidder agrees that if it is found by the State that the Bidder's responses to the Vendor Responsibility Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner at the Contractor's expense where the Contractor is determined by the Commissioner to be non-responsible. In such event, the Commissioner may complete the contractual

requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

f. Upon Conviction of Certain Crimes The Commissioner reserves the right to terminate the Contract in the event it is found that a member, partner, director or officer of Contractor is convicted of one or more of the following: Bribery Involving Public Servants and Related Offenses as defined in Article 200 of the New York State Penal Law; Corrupting the Government as defined in Article 496 of the New York State Penal Law; or Defrauding the Government as defined in Section 195.20 of the New York State Penal Law.

44. SAVINGS/FORCE MAJEURE A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled and is not due to the negligence or willful misconduct of the affected party. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, terrorism, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the Commissioner in the performance of the Contract where non-performance, by exercise of reasonable diligence, cannot be prevented.

The affected party shall provide the other party with written notice of any force majeure occurrence as soon as the delay is known and provide the other party with a written contingency plan to address the force majeure occurrence, including, but not limited to, specificity on quantities of materials, tooling, people, and other resources that will need to be redirected to another facility and the process of redirecting them. Furthermore, the affected party shall use its commercially reasonable efforts to resume proper performance within an appropriate period of time. Notwithstanding the foregoing, if the force majeure condition continues beyond 30 days, the parties to the Contract shall jointly decide on an appropriate course of action that will permit fulfillment of the parties' objectives under the Contract.

The Contractor agrees that in the event of a delay or failure of performance by the Contractor under the Contract due to a force majeure occurrence:

- a. The Commissioner may purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the State, or
- b. The Contractor will provide Authorized Users with access to Products first in order to fulfill orders placed before the force majeure event occurred. The Commissioner agrees that Authorized Users shall accept allocated performance or deliveries during the occurrence of the force majeure event.

Neither the Contractor nor the Commissioner shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the Commissioner to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the Commissioner where the delay or failure will significantly impair the value of the Contract to the State or to Authorized Users, the Commissioner may terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the Commissioner reserves the right, in his or her sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss to the Contractor. In the event of a dispute between the Contractor and the Commissioner, such dispute shall be resolved in accordance with the OGS Dispute Resolution Procedures; provided, however, that nothing in this clause shall excuse the Contractor from performing in accordance with the Contract as changed.

45. CONTRACT INVOICING

a. Invoicing Contractor and the dealers/distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to each Authorized User in order to receive payment. Billing invoices submitted to an Authorized User must contain all information required by the Contract and the State Comptroller or other appropriate fiscal officer.

Contractor shall provide, upon request of the Commissioner, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in a commercially reasonable manner as requested by the Commissioner. The Commissioner may direct the Contractor to provide the information to the State Comptroller or to any Authorized User of the Contract.

b. Payment of Contract Purchases made by an Authorized User when the State Comptroller is responsible for issuing such payment The Authorized User and Contractor agree that payments for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payments shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller website at www.osc.state.ny.us, by e-mail at HelpDesk@sfs.ny.gov, or by telephone at (518) 457-7737 or toll free (877) 737-4185. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract that are payable by the State Comptroller if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

c. Payment of Contract Purchases made by an Authorized User when the State Comptroller is not responsible for issuing such payment The Authorized User and Contractor agree that payments for such Contract purchases shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Authorized User. Such payments shall be as mandated by the appropriate governing law from the receipt

of a proper invoice. Such Authorized User and Contractor are strongly encouraged to establish electronic payments.

46. DEFAULT – AUTHORIZED USER

a. Breach by Authorized User An Authorized User's breach shall not be deemed a breach of the Centralized Contract; rather, it shall be deemed a breach of the Authorized User's performance under the terms and conditions of the Centralized Contract.

b. Failure to Make Payment In the event a participating Authorized User fails to make payment to the Contractor for Products delivered, accepted and properly invoiced, within 30 calendar days of such delivery and acceptance, the Contractor may, upon five business days advance written notice to both the Commissioner and the Authorized User's purchasing official, suspend additional provision of Products to such entity until such time as reasonable arrangements have been made and assurances given by such entity for current and future Contract payments.

c. Notice of Breach Notwithstanding the foregoing, the Contractor shall, at least 10 business days prior to declaring a breach of Contract by any Authorized User, by certified or registered mail, notify both the Commissioner and the purchasing official of the breaching Authorized User of the specific facts, circumstances and grounds upon which a breach will be declared.

d. Insufficient basis If the Contractor's basis for declaring a breach is insufficient, the Contractor's declaration of breach and failure to provide Products to an Authorized User may constitute a breach of the Contract, and the Authorized User may thereafter seek any remedy available at law or equity.

47. PROMPT PAYMENTS

a. By State Agencies Upon acceptance of Product or as otherwise provided by Contract, Contractor may invoice for payment. The required payment date shall be 30 calendar days, excluding legal holidays, from the receipt of a proper invoice, as determined in accordance with State Finance Law Section 179-f(2) and 2 NYCRR Part 18. The payment of interest on certain payments due and owed by the State Agency may be made in accordance with State Finance Law Sections 179-d et seq. and the implementing regulations (2 NYCRR § 18.1 et seq.).

b. By Non-State Agencies Upon acceptance of Product or as otherwise provided by Contract, Contractor may invoice for payment. The required payment date shall be 30 calendar days, excluding legal holidays, or as mandated by the appropriate governing law from the receipt of a proper invoice. The terms of Article 11-A of the State Finance Law apply only to procurements by and the consequent payment obligations of State Agencies. Neither expressly nor by any implication is the statute applicable to non-State agency Authorized Users. Neither OGS nor the State Comptroller is responsible for payments on any purchases made by a non-State agency Authorized User.

c. By Contractor Should the Contractor be liable for any payments to the State hereunder, interest, late payment charges and collection fee charges will be determined and assessed pursuant to Section 18 of the State Finance Law.

48. REMEDIES FOR BREACH Unless otherwise specified by the Authorized User in a Mini-Bid or Purchase Order, in the event that Contractor fails to observe or perform any term or condition of the Contract and such failure remains uncured after 15 calendar days following written notice by the Commissioner or an Authorized User,

the Commissioner or an Authorized User may exercise all rights and remedies available at law or in equity. Notwithstanding the foregoing, if such failure is of a nature that it cannot be cured completely within 15 calendar days and Contractor shall have commenced its cure of such failure within such period and shall thereafter diligently prosecute all steps necessary to cure such failure, such 15-day period may, in the sole discretion of the Commissioner or the Authorized User, be extended for a reasonable period in no event to exceed 60 calendar days. It is understood and agreed that the rights and remedies available to the Commissioner and Authorized Users in the event of breach shall include but not be limited to the following:

a. Cover/Substitute Performance In the event of Contractor's material, uncured breach, the Commissioner or Authorized User may, with or without issuing a formal Solicitation: (i) purchase from other sources; or (ii) if the Commissioner or Authorized User is unsuccessful after making reasonable attempts, under the circumstances then-existing, to timely obtain acceptable replacement Product of equal or comparable quality, the Commissioner or Authorized User may acquire acceptable replacement Product of lesser or greater quality. Such purchases may be deducted from the Contract quantity without penalty or liability to the State.

b. Withhold Payment In any case where a reasonable question of material, uncured non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Authorized User.

c. Bankruptcy In the event that the Contractor files, or there is filed against Contractor, a petition under the U.S. Bankruptcy Code during the term of this Centralized Contract, Authorized Users may, at their discretion, make application to exercise their right to set-off against monies due the debtor or, under the doctrine of recoupment, be credited the amounts owed by the Contractor arising out of the same transactions.

d. Reimbursement of Costs Incurred The Contractor agrees to reimburse the Authorized User promptly for any and all additional costs and expenses incurred for acquiring acceptable replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses, including reasonable attorney's fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, the ordering Authorized User may obtain replacement Product temporarily and the cost of the replacement Product shall be deducted from the Contract quantity without penalty or liability to the State.

e. Deduction/Credit Sums due as a result of these remedies may be deducted or offset by the Authorized User from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the Authorized User the amount of such claim or portion of the claim still outstanding, on demand. The Commissioner reserves the right to determine the disposition of any rebates, settlements, restitution, damages, etc., that arise from the administration of the Contract.

49. ASSIGNMENT OF CLAIM Contractor hereby assigns to the State any and all claims for overcharges associated with this Contract that may arise under the antitrust laws of the United States, 15 USC

Section 1, et seq. and the antitrust laws of the State of New York, General Business Law Section 340, et seq.

50. TOXIC SUBSTANCES Each Contractor furnishing a toxic substance, as defined by Section 875 of the Labor Law, shall provide such Authorized User with not less than two copies of a Safety Data Sheet, which sheet shall include for each such substance the information outlined in Section 876 of the Labor Law.

Before any chemical product is used or applied on or in any building, a copy of the product label and Safety Data Sheet must be provided to and approved by the Authorized User.

51. INDEPENDENT CONTRACTOR It is understood and agreed that the legal status of the Contractor, its Subcontractors, agents, officers and employees under this Contract is that of an independent contractor, and in no manner shall they be deemed employees of the Authorized User, and therefore are not entitled to any of the benefits associated with such employment.

52. SECURITY Contractor warrants, covenants and represents that, in the performance of the Contract, Contractor, its agents, Subcontractors, officers, distributors, resellers and employees will comply fully with all security procedures of the Authorized User set forth in the Contract or Purchase Order or otherwise communicated in advance to the Contractor including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

53. COOPERATION WITH THIRD PARTIES The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of the Authorized User, as necessary to ensure delivery or performance of Product.

54. WARRANTIES

a. Product Performance Contractor hereby warrants and represents that the Products acquired by the Authorized User under this Contract conform to the manufacturer's specifications, performance standards and Documentation and that the Documentation fully describes the proper procedure for using the Products.

b. Title and Ownership Contractor warrants and represents that it has (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver specified license rights to any Products acquired by Authorized User under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor shall indemnify Authorized Users and hold Authorized Users harmless from any damages and liabilities (including reasonable attorneys' fees and costs) arising from any breach of Contractor's warranties as set forth herein.

c. Product Warranty Contractor further warrants and represents that Products, components or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be substantially free from defects in material and workmanship and will conform to all requirements of the Contract for the manufacturer's standard commercial warranty period, if applicable, or for a minimum of one year from the date of acceptance, whichever is longer (the "Product warranty period").

During the Product warranty period, defects in the materials or workmanship of Products, components, or parts specified and furnished by or through Contractor, whether specified and furnished

individually or as a system, shall be repaired or replaced by Contractor at no cost or expense to the Authorized User. Contractor shall extend the Product warranty period for individual Products, or for the system as a whole, as applicable, by the cumulative periods of time, after notification, during which an individual Product, or the system as a whole, requires repairs or replacement resulting in down time or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees (“extended warranty”).

Any component or part replaced by the Contractor under the Contract warranties shall be guaranteed for the greater of: (i) the Product warranty period set forth herein; or (ii) the manufacturer’s standard commercial warranty period offered for the component or part, if applicable.

All costs for materials, labor, and transportation incurred to repair or replace Products, parts, components, or systems as a whole during the warranty period shall be borne solely by the Contractor, and the State or Authorized User shall in no event be liable or responsible therefor.

Where Contractor, the Third-Party Software vendor, or other third-party manufacturer markets any Product delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor’s warranty obligations during the Product warranty and extended warranty periods. Where such standard commercial warranty covers all or some of the Product warranty or extended warranty periods, Contractor shall be responsible for the coordination during the Product warranty or extended warranty periods with Third-Party Software vendor or other third-party manufacturers for warranty repair or replacement of Third-Party Software vendor or other third-party manufacturer’s Product.

Where Contractor, Third-Party Software vendor, or other third-party manufacturer markets any Product with a standard commercial warranty that goes beyond the Product warranty or extended warranty periods, Contractor shall notify the Authorized User and pass through the standard commercial warranty to Authorized User at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the standard commercial warranty after expiration of the Product warranty and extended warranty periods.

Unless recycled, recyclable, or recovered materials are available in accordance with the Remanufactured, Recycled, Recyclable, or Recovered Materials clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered. Contractor further warrants and represents that no component or part has been substituted or applied contrary to the manufacturer’s recommendations and standard practice.

Contractor shall not be responsible for any modification of the Products made by an Authorized User without Contractor’s approval.

d. Virus Warranty The Contractor represents and warrants that any Product acquired under the Contract by the Authorized User does not contain any known Viruses. Contractor is not responsible for Viruses introduced at an Authorized User’s Site.

e. Date/Time Warranty Contractor warrants that Product furnished pursuant to this Contract shall, when used in accordance with the Product Documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an

acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: (i) consulting, integration, code or data conversion, (ii) maintenance or support services, (iii) data entry or processing, or (iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor’s business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

f. Workmanship Warranty Contractor warrants that the services acquired under this Contract will be provided in a professional and workmanlike manner in accordance with the applicable industry standards, if any. The Authorized User must notify Contractor of any services warranty deficiencies within 90 calendar days from performance of the services that gave rise to the warranty claim.

g. Survival of Warranties All warranties contained in this Contract shall survive the termination of this Contract.

h. Prompt Notice of Breach The Authorized User shall promptly notify the Contractor and the Commissioner in writing of any claim of breach of any warranty provided herein.

i. Additional Warranties Where Contractor, Product manufacturer or service provider generally offers additional or more advantageous warranties than those set forth herein, Contractor shall offer or pass through any such warranties to Authorized Users.

j. No Limitation of Rights The rights and remedies of the State and the Authorized Users provided in this clause are in addition to and do not limit any rights afforded to the State and the Authorized Users by any other clause of the Contract.

55. LEGAL COMPLIANCE Contractor represents and warrants that it shall secure all notices and comply with all applicable laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any extensions thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Solicitation and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by the Commissioner. Failure to comply or failure to provide proof may constitute grounds for the Commissioner to terminate or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.

56. INDEMNIFICATION Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully defend, indemnify and hold the Authorized Users harmless from suits, actions, proceedings, claims, losses, damages, and costs (including reasonable attorney fees) of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from this Contract, without limitation;

provided, however, that the Contractor shall not be obligated to indemnify an Authorized User for any claim, loss or damage arising hereunder to the extent caused by the negligent act, failure to act, gross negligence or willful misconduct of the Authorized User.

The Authorized User shall give Contractor: (i) prompt written notice of any action, claim or threat of suit, or other suit for which Contractor is required to fully indemnify an Authorized User, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action, claim or suit at the expense of Contractor. Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, if it determines there is an issue involving a significant public interest.

In the event that an action or proceeding at law or in equity is commenced against the Authorized User arising out of a claim for death, personal injury or damage to real or personal tangible property caused by any intentional or willful act, gross negligence, or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from the Products supplied under this Contract, and Contractor is of the opinion that the allegations in such action or proceeding in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Authorized User and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event protect the interests of the Authorized User and attempt to secure a continuance to permit the State and the Authorized User to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the State and Authorized User may have. In the event of a dispute regarding the defense, the Contractor and the Attorney General shall try to reach an amicable resolution, but the Attorney General shall have the final determination on such matters.

57. INDEMNIFICATION RELATING TO INFRINGEMENT

The Contractor shall also defend, indemnify and hold the Authorized Users harmless from all suits, actions, proceedings, claims, losses, damages, and costs of every name and description (including reasonable attorney fees), relating to a claim of infringement of a patent, copyright, trademark, trade secret or other proprietary right provided such claim arises solely out of the Products as supplied by the Contractor, and not out of any modification to the Products made by the Authorized User or by someone other than Contractor at the direction of the Authorized User without Contractor's approval; provided, however, that the Contractor shall not be obligated to indemnify an Authorized User for any claim, loss or damage arising hereunder to the extent caused by the negligent act, failure to act, gross negligence or willful misconduct of the Authorized User.

The Authorized User shall give Contractor: (i) prompt written notice of any action, claim or threat of suit alleging infringement, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action, claim or suit at the expense of Contractor. Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, if it determines there is an issue involving a significant public interest.

If usage of a Product shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its

own expense and sole discretion to take action in the following order of precedence: (i) to procure for the Authorized User the right to continue usage (ii) to modify the service or Product so that usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace such Product or parts thereof, as applicable, with non-infringing Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided that the Authorized User is given a refund for any amounts paid for the period during which usage was not feasible.

In the event that an action or proceeding at law or in equity is commenced against the Authorized User arising out of a claim that the Authorized User's use of the Product under the Contract infringes any patent, copyright, trademark, trade secret or proprietary right, and Contractor is of the opinion that the allegations in such action or proceeding in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Authorized User and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event protect the interests of the Authorized User and attempt to secure a continuance to permit the State and the Authorized User to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the State and Authorized User may have. In the event of a dispute regarding the defense, the Contractor and the Attorney General shall try to reach an amicable resolution, but the Attorney General shall have the final determination on such matters. This constitutes the Authorized User's sole and exclusive remedy for infringement of a patent, copyright, trademark, trade secret, or other proprietary right.

58. LIMITATION OF LIABILITY Except as otherwise set forth in the Indemnification clause and the Indemnification Relating to Infringement clause, the limit of liability shall be as follows:

a. Contractor's liability for any claim, loss or liability arising out of, or connected with the Products provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the Purchase Order for the Products forming the basis of the Authorized User's claim or (ii) five hundred thousand dollars (\$500,000), whichever is greater.

b. The Authorized User may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against the Authorized User unless Contractor at the time of the presentation of claim shall demonstrate to the Authorized User's satisfaction that sufficient monies are set aside by the Contractor in the form of a bond or through insurance coverage to cover associated damages and other costs.

c. Notwithstanding the above, neither the Contractor nor the Authorized User shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Authorized User, the Contractor, or by others.

59. DISPUTE RESOLUTION PROCEDURES

It is the policy of OGS to provide interested parties, as defined in the OGS Dispute Resolution Procedures, with an opportunity to

administratively resolve disputes, complaints or inquiries related to Solicitations, contract awards and contract administration. OGS encourages interested parties to seek resolution of disputes through consultation with OGS staff. All such matters shall be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of the OGS Dispute Resolution Procedures may be obtained by contacting the designated contact for the Solicitation, the Contract manager, or at the OGS website. OGS reserves the right to change the procedures set forth in the Dispute Resolution Procedures without seeking a Contract amendment.

To the extent the scope of the Solicitation or Contract includes the sale, development, maintenance, or use of information technology Products such as software, computer components, systems, or networks for the processing, and distribution, or storage, or storage of data, the following clauses shall govern, as applicable.

60. SOFTWARE LICENSE GRANT Where Product is acquired on a licensed basis the following shall constitute the license grant:

a. License Scope Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up to the capacity measured by the applicable licensing unit stated on the Purchase Order (e.g., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation, virtual partition). Licensee shall have the right to use those modifications or customizations of the Product that have been purchased by Licensee and to distribute such modifications or customizations for use by any Authorized Users otherwise licensed to use the Product, provided that any modifications or customizations, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or interest in any trademark, trade name, or service mark is granted hereunder.

Licensee and Contractor may agree to alternative licensing rights (e.g., subscription, term, virtual) for specific Products used by the Contractor in performing the services, provided such agreement is reached prior to Bid, Mini-Bid, RFQ, or Contract award, as applicable. Such licensing rights will be specified in an applicable Purchase Order or other document approved by Licensee and Contractor.

b. License Term The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the license term shall be extended by the time period for testing, acceptance or trial.

c. Product Documentation Contractor shall provide Product Documentation electronically to Licensee at no charge. If Product Documentation is made available to customers in hard copy, Contractor shall provide at no charge one hard copy.

Contractor hereby grants to Licensee a non-exclusive, fully paid-up, royalty-free perpetual license in the Product Documentation to make, reproduce, and distribute, either electronically or otherwise, copies of the Product Documentation as necessary to enjoy full use of the Product in accordance with the Contract.

d. Product Technical Support & Maintenance Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Centralized Contract term. Contractor shall fully disclose all terms and conditions of maintenance available to Licensee, including the extent to which updates, upgrades, revisions, and new releases are included in maintenance. Maintenance terms and any renewals thereof are independent of the expiration of the Centralized Contract term and shall not automatically renew.

Unless otherwise provided by written agreement between the Contractor and Licensee, maintenance offered shall include, at a minimum, (i) the provision of Error Corrections, updates, enhancements, revisions, Patches, and upgrades to Licensee, and (ii) help desk assistance at no additional cost, either by toll-free telephone

or on-line functionality. Contractor shall maintain the Product so as to provide Licensee with the ability to utilize the Product in accordance with the Product Documentation without significant functional downtime to its ongoing business operations during the maintenance term.

Licensee shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon notice to Contractor. In the event that Licensee does not initially acquire or discontinues maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount that would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates. Contractor shall submit written notification to Licensees of the upcoming maintenance end date no later than 60 calendar days prior to such maintenance end date.

e. Permitted License Transfers As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated Site not originally specified in the license, including transfers within Agencies, between Agencies, and pursuant to governmental restructuring or reorganization ("permitted license transfers"). Licensees do not have to obtain the approval of Contractor for permitted license transfers, but must give 30 days prior written notice to Contractor of such moves and certify in writing that the Product is not in use at the prior Site. There shall be no additional license or other transfer fees due Contractor, provided that: (i) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred Site (e.g., named users, seats, or MIPS); or (ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred Site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

f. Restricted Use By Third Parties Third parties retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: (i) Licensee gives notice to Contractor of such third party, Site of intended use of the Product, and means of access; and (ii) such third party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement, which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and (iii) such third party maintains a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

g. Archival Back-Up and Disaster Recovery Licensee may use and copy the Product and related Documentation in connection with: (i) reproducing a reasonable number of copies of the Product for

archival backup and disaster recovery procedures; (ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage; (iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. The phrase "cold site storage" means a restorable back-up copy of the Product not to be installed until the need for disaster recovery arises. The phrase "disaster recovery" means the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development. Contractor shall fully disclose all archival back-up and disaster recovery options available to Licensee (e.g., cold, warm, and hot back-up), including all terms and conditions, additional charges, or use authorizations associated with such options.

h. Confidentiality Restrictions If any portion of the Product or Product Documentation contains confidential, proprietary, or trade secret information, the Contractor shall identify such information in writing to the Licensee. The terms of Licensee's use and disclosure of such information shall be governed by a written agreement between the Contractor and the Licensee, which, in the case of Licensees that are State or local governmental entities, recognizes that they are subject to the New York Freedom of Information Law.

i. Restricted Use by Licensee Except as expressly authorized by the Terms of License, Licensee shall not: (i) copy the Product; (ii) cause or permit reverse compilation or reverse assembly of all or any portion of the Product; or (iii) export the Licensed Software in violation of the Export Administration Regulations (EAR) or the International Traffic in Arms Regulations (ITAR).

61. PRODUCT ACCEPTANCE Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, an Authorized User shall have 30 days from the date of delivery to accept hardware Products and 60 days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Title or other property interest and risk of loss shall not pass from Contractor to the Authorized User until the Products have been accepted. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Authorized User as of the expiration of that period. The license term shall be extended by the time periods allowed for trial use, testing and acceptance.

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User shall have the option to run testing on the Product prior to acceptance, such tests and data to be specified by Authorized User. Where using its own data or tests, Authorized User must have the tests or data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Authorized User, which shall be made part of the Contractor's standard documentation and shall be covered by the Product warranty. The test data shall remain accessible to the Authorized User after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, Authorized User shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional 30 day increment. Authorized User shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Authorized User for damages, loss of profits, expenses, or other remuneration of any kind.

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, if the Authorized User elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have 30 days to correct the deficiency, and the Authorized User shall have an additional 60 days to evaluate the Product as provided herein.

If the Product does not meet the specifications at the end of the extended testing period, Authorized User, upon prior written notice to Contractor, may then reject the Product and return all defective Product to Contractor, and Contractor shall refund any monies paid by the Authorized User to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the Authorized User's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability clause for any liability for costs incurred at the direction or recommendation of Contractor. When Product is not accepted, it must be removed by the Contractor from the premises of the Authorized User within ten calendar days of notification of non-acceptance by the Authorized User. Rejected items not removed by the Contractor within the ten calendar day period shall be regarded as abandoned by the Contractor and the Authorized User shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Authorized User for any costs incurred in storage or effecting removal or disposition after the ten calendar day period.

62. AUDIT OF LICENSED PRODUCT USAGE Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any Site where a copy of the Product resides. Contractor may conduct such audits remotely or on Site. If conducted remotely and if Contractor makes a license management program available, the Licensee agrees to install such program and use it within a reasonable period of time, provided such program meets Licensee's security or other requirements. If conducted on Site: (i) Contractor shall give Licensee at least 30 days advance written notice, (ii) such audit shall be conducted during Licensee's normal business hours, (iii) the audit shall be conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three auditing/accounting firms from which the Licensee will select one; and (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit. If the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the net pricing in effect under the Contract at time of audit, or if none, then at the Contractor's U.S. commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall have no further liability of any kind for the unauthorized use of the software.

In the event of an on-Site audit, the Software Alliance, Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) may not be used directly or indirectly to conduct such audit, nor may such entities be recommended by Contractor.

63. NO HARDSTOP OR PASSIVE LICENSE MONITORING Unless otherwise expressly agreed to by the Licensee, the Product and all upgrades shall not contain any computer code that would disable the Product or upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Any Contractor access to the Product agreed to by Licensee as provided above shall be in accordance with Licensee's security or other requirements. Contractor agrees that in the event of a breach of this provision that Licensee shall not have an adequate remedy at law, including monetary damages, and that Licensee shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Licensee shall be entitled.

64. OWNERSHIP/TITLE TO PROJECT DELIVERABLES

This clause shall apply where Contractor is commissioned by the Authorized User to furnish project deliverables as detailed in the Purchase Order.

a. Definitions

(i) For purposes of this clause, "Products" means deliverables furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on electronic media c) Third-Party Software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, Source Code, object code).

(ii) For purposes of this clause, "Existing Products" means tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the project.

(iii) For purposes of this clause, "Custom Products" means Products, preliminary, final, or otherwise, that are created or developed by Contractor, its Subcontractors, partners, employees, or agents for Authorized User under the Contract.

b. Title to Project Deliverables Unless otherwise specified in writing in the Purchase Order, the Authorized User shall have ownership and license rights as follows:

(i) Existing Products:

1. Hardware - Title and ownership of Existing hardware Products shall pass to Authorized User upon acceptance.

2. Software - Title and ownership to Existing software Products delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other Third-Party Software vendor ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the Third-Party Software vendor. Effective upon acceptance, such Product shall be licensed to Authorized User in accordance with the Contractor or Third-Party Software vendor's standard license

agreement; provided, however, that such standard license, must, at a minimum: (a) grant Authorized User a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises Authorized User as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Authorized User's satisfaction) and distribute Existing Licensed Product to the Authorized User up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purposes stated in the Solicitation or Authorized User's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the Licensee where the Authorized User is a State Agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the Third-Party Software vendor's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Authorized User shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this clause.

(ii) Custom Products: Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to Authorized User the sole and exclusive rights, title and interest in Custom Products, whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. Authorized User may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of Authorized User taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all Authorized Users shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purposes as stated in paragraph (b)(i)(2), above.

c. Transfers or Assignments to a Third-Party Financing Agent It is understood and agreed by the parties that a condition precedent to the consummation of the purchases under the Contract may be the obtaining of acceptable third-party financing by the Authorized User. The Authorized User shall make the sole determination of the acceptability of any financing proposal. The Authorized User will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, Authorized User may assign or transfer its rights in Licensed Products (existing or custom) to a third-party financing entity or trustee ("Trustee") as collateral where required by the terms of the financing agreement. Trustee's sole rights with respect to transferability or use of Licensed Products shall be to exclusively sublicense to Authorized User all of its Licensee's rights under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee's rights in such Licensed Product shall terminate immediately and Authorized User's prior rights to such Existing Licensed Product shall be revived.

d. Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS) The Authorized User's sale or other transfer of Custom Products which were acquired by the Authorized User using third-party, tax-exempt financing may not

occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Products, the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Authorized User which complies with the terms of this clause.

e. Contractor's Obligation with Regard to Third-Party Software Where Contractor furnishes Existing Licensed Products as a project deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or the Third-Party Software vendor's standard license agreement, Contractor shall be responsible for obtaining from the Third-Party Software proprietary owner/developer the rights set forth herein to the benefit of the Authorized User at Contractor's sole cost and expense.

65. PROOF OF LICENSE The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified license confirmation certificates in the name of such Licensee; (ii) a written confirmation from the proprietary owner accepting Product invoice as proof of license; or (iii) other similar proof of license. All proofs of license must be in a form acceptable to the Licensee.

66. CHANGES TO PRODUCT OR SERVICE OFFERINGS

a. Product or Service Discontinuance Where Contractor is the Product manufacturer/developer, and Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor ("withdrawn support") is no longer going to be offered, Contractor shall be required to: (i) notify the Commissioner and each Licensee then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: (a) the best terms offered by Contractor to any other similarly situated, supported customer, or (b) not less than 12 months from the date of notice; and (iii) at Licensee's option, and in order to enable Licensee to continue the use and maintenance of the Product, provide Licensee with a Product replacement or migration path with at least equivalent functionality at no additional charge, provided that Licensee is under contract for maintenance on the date of notice and Contractor is offering such replacement or migration path to all of its similarly situated, supported customers without additional charge.

In the event that the Contractor is not the Product manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five business days of Contractor receiving notice from the Product manufacturer, and (ii) include in such notice the period of time from the date of notice that the Product manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to State approval, to an alternate Subcontractor.

b. Product or Service Re-Bundling In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall

be required to: (i) notify the Commissioner and each Licensee in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: (a) the best terms offered by Contractor to any other similarly situated, supported customer, or (b) not less than 12 months from the date of notice; and (iii) shall submit the proposed rebundling change to the Commissioner for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

INDEX

	<u>Clause</u>		<u>Clause</u>
	<u>No.</u>		<u>No.</u>
<u>A</u>		<u>P</u>	
Assignment	40	Participation in Centralized Contracts	25
Assignment of Claim	49	Prevailing Wage Rates - Public Works and Building Services Contracts	7
Audit of Licensed Product Usage	62	Pricing	13
		Product Acceptance	61
<u>B</u>		Product Delivery	31
Bid Evaluation	16	Product References	10
Bid Opening	4	Product Substitution	35
		Products Manufactured in Public Institutions	12
<u>C</u>		Prompt Payments	47
Changes to Product or Service Offerings	66	Proof of License	65
Confidential/Trade Secret Materials	6	Purchase Orders	30
Contract Invoicing	45	Purchasing Card	15
Contract Creation/Execution	22		
Contract Publicity	21	<u>Q</u>	
Contract Term - Extension	23	Quantity Changes Prior to Award	18
Cooperation with Third Parties	53		
		<u>R</u>	
<u>D</u>		Rejected Product	36
Debriefings	20	Remanufactured, Recycled, Recyclable, or Recovered Materials	11
Default - Authorized User	46	Remedies for Breach	48
Definitions	2	Repaired or Replaced Products, Parts, or Components	38
Dispute Resolution Procedures	59		
		<u>S</u>	
<u>E</u>		Savings/Force Majeure	44
Emergency Contracts	29	Scope Changes	27
Employees, Subcontractors and Agents	39	Security	52
Estimated/Specific Quantity Contracts	28	Site Inspection	14
Ethics Compliance	1	Shipping/Receipt of Product	33
Expenses Prior to Contract Execution	9	Software License Grant	60
		Subcontractors and Suppliers	41
<u>I</u>		Suspension of Work	42
Indemnification	56		
Indemnification Relating to Infringement	57	<u>T</u>	
Independent Contractor	51	Taxes	8
Installation	37	Termination	43
International Bidding	3	Tie Bids	17
		Timeframe for Offers	19
<u>L</u>		Title and Risk of Loss for Products Other than Technology Products	34
Late Bids	5	Toxic Substances	50
Legal Compliance	55		
Limitation of Liability	58	<u>W</u>	
		Warranties	54
<u>M</u>		Weekend and Holiday Deliveries	32
Modification of Contract Terms	26		
<u>N</u>			
No Hardstop or Passive License Monitoring	63		
<u>O</u>			
Official Use Only/No Personal Use	24		
Ownership/Title to Project Deliverables	64		

APPENDIX C

Authorized users that may want to seek federal funds from the federal funding agencies for the purchase of goods or services during a declared disaster are advised that federal funding agencies require particular terms and conditions be included in the contract for those goods and services. For the convenience of authorized users, those terms and conditions are set out below and can also be found at the FEMA website.

Authorized users of statewide contracts should consider adding this language to future purchase orders and secondary level competitions (often referred to as RFQs or mini- bids), unless the language is already attached to the statewide contract. State agencies making purchases to respond to disasters through a vehicle other than a centralized contract are required by Section H.6. of [Budget Bulletin H-501R](#) to include these and other terms into their contracts using the Appendix set forth in the Budget Bulletin.

Federal Funding Agency Mandatory Terms and Conditions

The following provisions are required by federal funding agencies in order for expenditures by Authorized Users to be eligible for federal reimbursement in the event of a State declaration of disaster emergency pursuant to Section 28 of the Executive Law.

1. REMEDIES

Remedies for Contractor failure to observe or perform any term or condition shall be as provided in the OGS centralized contract (if applicable), including all appendices.

2. TERMINATION FOR CAUSE AND CONVENIENCE

Termination for cause and convenience will be in accordance with Termination, Appendix B, General Specifications, if a statewide centralized contract, and Section 5, Copeland Anti-Kickback Act, of this document and/or the rules and regulations of your governing authority.

3. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of the contract, OGS centralized contract (if applicable) or any purchase by an Authorized User, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the

compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- D. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of the OGS centralized contract or with any of the said rules, regulations, or orders, the OGS centralized contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Authorized User further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the Authorized User so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Authorized User agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision

of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Authorized User further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Authorized User agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Authorized User under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such Authorized User; and refer the case to the Department of Justice for appropriate legal proceedings.

4. DAVIS-BACON ACT. (Applicable to all construction contracts in excess of (\$2000))

- A. If applicable, all transactions regarding the OGS centralized contract or any purchase by an Authorized User shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Contractor shall comply with 40 U.S.C. 3141- 3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- B. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- C. Additionally, Contractors are required to pay wages not less than once a week.

5. COPELAND ANTI-KICKBACK ACT. (Applicable to all construction contracts in excess of (\$2000))

- A. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the OGS centralized contract.
- B. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as Federal funding agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- C. Breach. A breach of the clauses above may be grounds for termination of the OGS centralized contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT. (Applicable to all contracts in excess of \$100,000 that involve employment of mechanics and laborers)

- A. Overtime requirements. No Contractor or subcontractor for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

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- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- C. Withholding for unpaid wages and liquidated damages. The Authorized User shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal Agreement with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- D. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

All such rights shall be addressed in accordance with Ownership/Title to Project Deliverables, Appendix B, General Specifications.

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT. (Applicable to all contracts in excess of \$150,000)

Clean Air Act

- A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et, seq.
- B. The Contractor agrees to report each violation to the contract manager or the Office of General Services and the Authorized User if a statewide centralized contract and understands and agrees that the Office of General Services or the Authorized User will, in turn, report each violation as required to assure notification to the Federal funding agency, and the appropriate Environmental Protection Agency Regional Office.
- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the Federal funding agency.

Federal Water Pollution Control Act

- A. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. The Contractor agrees to report each violation to the Office of General Services and Authorized User and understands and agrees that the Office of General Services or the Authorized User will, in turn, report each

violation as required to assure notification to the Federal funding agency, and the appropriate Environmental Protection Agency Regional Office.

- C. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the Federal funding agency.

9. DEBARMENT AND SUSPENSION

- A. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the State or Authorized User. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State or an Authorized User, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (as amended)

If the OGS centralized contract or any purchase by an Authorized User has a value of \$100,000 or more, Contractor shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

- A. Required Certification. If applicable, Contractors must sign and submit to the State the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements. The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, CNH Industrial America LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official 

Name of Contractor's Authorized Official Amy Swett

Title of Official Government Sales Manager Date: 12-9-25

11. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired —
 - Competitively within a timeframe providing for compliance with the contract performance schedule;
 - Meeting contract performance requirements; or
 - At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>
- C. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

12. ACCESS TO RECORDS

- A. The Contractor agrees to provide the Office of General Services or the Authorized User, the Federal funding agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor that are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

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- C. The Contractor agrees to provide the Federal funding agency or its authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- D. The State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the Federal funding agency or the Comptroller General of the United States.

13. CHANGES

Amendments to this contract shall be in accordance with the terms of the OGS centralized contract.

14. FEDERAL SEAL(S), LOGOS, AND FLAGS

The Contractor shall not use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

15. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that Federal funding agency financial assistance may be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA or other federal agency policies, procedures, and directives.

16. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Contract or any purchase by an Authorized User and is not subject to any obligations or liabilities to the State, Contractor, or any other party pertaining to any matter resulting from the Contract or any purchase by an Authorized User.

17. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract or any purchase by an Authorized User.

18. FEDERAL DEBT

The Contractor certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

19. CONFLICTS OF INTEREST

The Contractor shall notify the Office of General Services and Authorized User as soon as possible if this Agreement or any aspect related to the anticipated work under this Agreement raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Contractor shall explain the actual or potential conflict in writing in sufficient detail so that the Office of General Services and Authorized User is able to assess the actual or potential conflict. The Contractor shall provide any additional information necessary for the Office of General Services and Authorized User to fully assess and address the actual or potential conflict of interest.

20. U.S. EXECUTIVE ORDER 13224

Contractor, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

ATTACHMENT 1 – PRICING

HEAVY EQUIPMENT (STATEWIDE)

GROUP #: 40625

AWARD #: PGB-23345

CONTRACTOR: CNH INDUSTRIAL AMERICA LLC

NEW YORK STATE CONTRACT #: PC70987

MASTER CONTRACT HOLDER: SOURCEWELL

MASTER CONTRACT #: 082923-CNH

AS OF DATE: APRIL 15, 2026

WEBSITE TO VIEW MASTER CONTRACT PRICING:

[HTTPS://WWW.SOURCEWELL-MN.GOV/COOPERATIVE-PURCHASING/082923-CNH-1](https://www.sourcewell-mn.gov/cooperative-purchasing/082923-CNH-1)

[HTTPS://WWW.SOURCEWELL-MN.GOV/COOPERATIVE-PURCHASING/082923-CNH-2](https://www.sourcewell-mn.gov/cooperative-purchasing/082923-CNH-2)

ATTACHMENT 2**Insurance Requirements**

The Bidder shall be required to procure, at its sole cost and expense, all insurance required by this Attachment.

The Bidder shall be required to provide proof of compliance with the requirements of this Attachment, as follows:

- Proof of Workers' Compensation and Disability Benefits Insurance should be provided in accordance with Section B below;
- Proof of all other insurance shall be provided in accordance with Section B below;
- After award, the Contractor shall be required to provide proof of all insurance after policy renewal or upon request according to the timelines set forth in Section A.13 below.

Contractors shall be required to procure, at their sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from this Solicitation/this Contract, policies of insurance as required by this Attachment. All insurance required by this Attachment shall be written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this Attachment should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York. OGS may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII," the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above.

Bidders and Contractors shall deliver to OGS evidence of the insurance required by this Solicitation and any Contract resulting from this Solicitation/Contract in a form satisfactory to OGS. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. While acceptance of insurance documentation shall not be unreasonably withheld, conditioned, or delayed, acceptance and/or approval by OGS does not, and shall not be construed to relieve Bidders or Contractors of any obligations, responsibilities or liabilities under this Solicitation and any Contract resulting from this Solicitation/Contract.

The Contractor shall not take any action or omit to take any action that would suspend or invalidate any of the required coverages during the term of any Contract resulting from this Solicitation/the Contract.

A. General Conditions Applicable to Insurance.

Only original documents (certificates of insurance and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

OGS requires Contractors to submit only certificates of insurance and additional insured endorsements. Contractors should refrain from submitting entire insurance policies. If an entire insurance policy is submitted but not requested, OGS shall not be obligated to review it and shall not be chargeable with knowledge of its contents. In addition, the submission of an entire insurance policy not requested by OGS does not constitute proof of compliance with the insurance requirements and does not discharge Contractors from submitting the requested insurance documentation. OGS reserves the right to request other proof of insurance, including, but not limited to, policies, and Contractors agree to comply with all reasonable requests.

All policies of insurance required by this Solicitation and any Contract resulting from this Solicitation/Contract shall comply with the following requirements:

1. **Coverage Types and Policy Limits.** The types of coverage and policy limits required from Bidders and Contractors are specified in Paragraph B *Insurance Requirements* below.
2. **Policy Forms.** Except as otherwise specifically provided herein or agreed to in any Contract resulting from this Solicitation/Contract, all policies of insurance required by this Attachment shall be written on an occurrence basis. In the event that occurrence-based coverage is not commercially available, OGS reserves the right to accept claims-made policy forms, in its sole discretion, provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three (3) years with respect to events that occurred but were not reported during the term of the policy.
3. **Certificates of Insurance/Notices.** Bidders and Contractors shall provide OGS with a Certificate or Certificates of Insurance, in a form satisfactory to OGS as detailed below, and pursuant to the timelines set forth in Section A.13. below. Certificates shall name The New York State Office of General Services, Bureau of Risk and Insurance Management (BRIM), 32nd Floor, Corning Tower, Empire State Plaza, Albany, New York 12242 as the certificate holder.

Certificates of Insurance shall:

- Be in the form acceptable to OGS and in accordance with the New York State Insurance Law (e.g., an ACORD 25);
 - Disclose any deductible, self-insured retention, aggregate limit, or exclusion to the policy that materially changes the coverage required by this Solicitation and any Contract resulting from this Solicitation/Contract;
 - Be signed by an authorized representative of the referenced insurance carriers; and
 - Contain the following language in the Description of Operations / Locations / Vehicles section of the Certificate or on a submitted endorsement: *Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.*
4. **Primary Coverage.** All Commercial General Liability, Business Automobile Liability, and Umbrella/Excess Liability insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees. Any other insurance maintained by the People of the State of New York, the New

York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees shall be excess of and shall not contribute with the Bidder/Contractor's insurance.

5. ***Breach for Lack of Proof of Coverage.*** The failure to comply with the requirements of this Attachment at any time during the term of any Contract resulting from this Solicitation/the Contract shall be considered a breach of the terms of any Contract resulting from this Solicitation/the Contract and shall allow the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees to avail themselves of all remedies available under any Contract resulting from this Solicitation/the Contract, at law or in equity.
6. ***Self-Insured Retention/Deductibles.*** Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above \$100,000.00 are subject to approval from OGS. Such approval shall not be unreasonably withheld, conditioned, or delayed. Bidders and Contractors shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Bidder/Contractor is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.
7. ***Subcontractors.*** Prior to the commencement of any work by a Subcontractor, the Contractor shall require such Subcontractor to procure policies of insurance as required by this Attachment and maintain the same in force during the term of any work performed by that Subcontractor. An Additional Insured Endorsement CG 20 38 12 19 (or the equivalent) evidencing such coverage shall be provided to the Contractor prior to the commencement of any work by a Subcontractor and pursuant to the timelines set forth in Section A.13. below, as applicable, and shall be provided to OGS upon request. For Subcontractors that are self-insured, the Subcontractor shall be obligated to defend and indemnify the above-named additional insureds with respect to the Commercial General Liability and Business Automobile Liability policies, in the same manner that the Subcontractor would have been required to pursuant to this section had the Subcontractor obtained such insurance policies.
8. ***Waiver of Subrogation.*** For all Commercial General Liability, Business Automobile Liability, Umbrella/Excess Liability policies and the workers' compensation insurance required below, the Bidder/Contractor shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if the Contractor waives or has waived before the casualty, the right of recovery against The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees or (ii) any other form of permission for the release of The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees. A Waiver of

Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

9. ***Additional Insured.*** The Contractor shall cause to be included in each of the Commercial General Liability, Business Automobile Liability, and Umbrella/Excess Liability policies required below coverage for on-going and completed operations naming as additional insureds (via ISO coverage forms CG 20 10 12 19 and CG 20 37 12 19 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage): The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/the Contract and their officers, agents, and employees. An Additional Insured Endorsement, or the equivalent, evidencing such coverage shall be provided to OGS pursuant to the timelines set forth in Section 13 below. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Contractors who are self-insured, the Contractor shall be obligated to defend and indemnify the above-named additional insureds with respect to the Commercial General Liability and Business Automobile Liability policies, in the same manner that the Contractor would have been required to pursuant to this Attachment had the Contractor obtained such insurance policies.
10. ***Excess/Umbrella Liability Policies.*** Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of Underlying Insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided upon request.
11. ***Notice of Cancellation or Non-Renewal.*** Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) business days of receipt of any notice of cancellation or non-renewal of insurance, the Contractor shall provide OGS with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Solicitation and any Contract resulting from this Solicitation/Contract.
12. ***Policy Renewal/Expiration.*** Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this Solicitation and any Contract resulting from this Solicitation/Contract shall be delivered to OGS. If, at any time during the term of any Contract resulting from this Solicitation/the Contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Solicitation and any Contract resulting from this Solicitation/Contract, or proof thereof is not provided to OGS, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by OGS.
13. ***Deadlines for Providing Insurance Documents after Renewal or Upon Request.*** As set forth herein, certain insurance documents must be provided to the OGS BRIM contact identified in the Contract Award Notice after policy renewal or upon request. This requirement means that the Contractor shall provide the applicable insurance document to OGS as soon as possible but in no event later than the following time periods:

- For certificates of insurance: 5 business days from request or renewal;

- For information on self-insurance or self-retention programs: 15 calendar days from request or renewal;
- For other requested documentation evidencing coverage: 15 calendar days from request or renewal;
- For additional insured and waiver of subrogation endorsements: 30 calendar days from request or renewal; and
- For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: 5 business days from request or renewal.

Notwithstanding the foregoing, if the Contractor shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to OGS, OGS shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 calendar days.

B. Insurance Requirements.

Bidders and Contractors shall obtain and maintain in full force and effect, throughout the term of any Contract resulting from this Solicitation/the Contract, at their own expense, the following insurance with limits not less than those described below and as required by the terms of any Contract resulting from this Solicitation/the Contract, or as required by law, whichever is greater:

Insurance Type – Option 1 Commercial General Liability Insurance and Garage Liability Insurance		Proof of Coverage is Due
Commercial General Liability	No less than \$1,000,000 each occurrence	Upon notification of tentative award and updated in accordance with the requirements of this Attachment.
General Aggregate	\$2,000,000	
Products Completed Operations Aggregate	\$2,000,000	
Personal and Advertising Injury	\$1,000,000	
Business Automobile Liability	No less than \$1,000,000 each accident	
Garage/Auto Dealers Liability		
Garage liability for garage operations	\$1,000,000	
Garagekeepers liability	\$100,000.00 per vehicle in custody; \$500,000.00 aggregate on a “direct primary” basis.	
Workers’ Compensation		At the time of bid submission and updated in accordance with the requirements of this Attachment.
Disability Benefits		

Insurance Type – Option 2 Garage Liability Insurance Only		Proof of Coverage is Due
Garage Liability Insurance		Upon notification of tentative award and updated in accordance with the requirements of this Attachment.
Garage liability for garage operations	Not less than \$1,000,000 each occurrence	
General Aggregate	\$2,000,000	
Products Completed Operations Aggregate	\$2,000,000	
Personal and Advertising Injury	\$1,000,000	
Garagekeepers liability	\$100,000.00 per vehicle in custody; \$500,000.00 aggregate on a “direct primary” basis.	
Business Automobile Liability	No less than \$1,000,000 each accident	
Workers’ Compensation		At the time of bid submission and updated in accordance with the requirements of this Attachment.
Disability Benefits		

Insurance Type – Option 3 Commercial General Liability Insurance Only		Proof of Coverage is Due
Commercial General Liability	No less than \$1,000,000 each occurrence	Upon notification of tentative award and updated in accordance with Contract
General Aggregate	\$2,000,000	
Products-Completed Operations Aggregate	\$2,000,000	
Personal and Advertising Injury	\$1,000,000	
Business Automobile Liability Insurance	No less than \$1,000,000 each accident	
Garage Liability Insurance		
Garagekeepers liability	\$100,000.00 per vehicle in custody; \$500,000.00 aggregate on a “direct primary” basis.	
Workers’ Compensation		At the time of bid submission and updated in accordance with the requirements of this Attachment.
Disability Benefits		

1. **Commercial General Liability Insurance.** Such liability shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) [and explosion, collapse & underground coverage].

Policy shall include bodily injury, property damage and broad form contractual liability within the following:

- General Aggregate
- Products – Completed Operations Aggregate
- Personal and Advertising Injury
- Each Occurrence

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 any Contract resulting from this Solicitation/the Contract;
- Cross liability for additional insureds; and
- Products/completed operations for a term of no less than three [1-3] years, commencing upon acceptance of the work, as required by the Contract.

2. **Business Automobile Liability Insurance.** Such insurance shall cover liability arising out of automobiles used in connection with performance under any Contract resulting from this Solicitation/the Contract, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates.

In the event that the Contractor does not own, lease or hire any automobiles used in connection with performance under any Contract resulting from this Solicitation/the Contract, the Contractor does not need to obtain Business Automobile Liability Insurance, but must attest to the fact that the Contractor does not own, lease or hire any automobiles used in connection with performance under any Contract resulting from this Solicitation/the Contract on a form provided by OGS. If, however, during the term of the Contract, the Contractor acquires, leases or hires any automobiles that will be used in connection with performance under any Contract resulting from this Solicitation/the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to OGS in accordance with the insurance requirements of any Contract resulting from this Solicitation/the Contract.

3. **Garage Liability/Auto Dealers Insurance.** If Commercial General Liability and Business Automobile Liability is covered under a Garage Liability or Auto Dealers policy such liability shall be written on the current edition of ISO occurrence form CA 00 05, or a substitute form providing equivalent coverage, including coverage for all garage operations of the Contractor, including premises and operations; and products and completed operations coverage with minimum limits.

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 any Contract resulting from this Solicitation;
- Cross liability for additional insureds;
- Products/completed operations for a term of no less than one (1) year, commencing upon acceptance of the work, as required by any Contract resulting from this Solicitation;

4. **Garagekeepers Liability.** The aggregate must be on a “*direct primary*” basis.

5. **Workers’ Compensation Insurance and Disability Benefits Requirements**

Sections 57 and 220 of the New York State Workers’ Compensation Law require the heads of all municipal and State entities to ensure that businesses applying for contracts have appropriate workers’ compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of a Bid or any contract renewal. A Bidder will not be awarded a Contract unless proof of workers’ compensation and disability insurance is provided to OGS.** Proof of compliance must be submitted on one of the following forms designated by the New York State Workers’ Compensation Board. **An ACORD form is not acceptable proof of New York State workers’ compensation or disability benefits insurance coverage.**

The failure to comply with the requirements of this Attachment at any time during the term of any Contract resulting from this Solicitation/Contract shall be considered a breach of the terms of any Contract resulting from this Solicitation and shall allow the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation/Contract and their officers, agents, and employees to avail themselves of all remedies available under any Contract resulting from this Solicitation/Contract, at law or in equity.

Proof of Compliance with Workers’ Compensation Coverage Requirements:

- Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the Workers’ Compensation Board’s website (www.businessexpress.ny.gov/app/answers/cms/a_id/2263/kw/CE200)
- Form C-105.2 (9/07), *Certificate of Workers’ Compensation Insurance*, sent to OGS by the Contractor’s insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to OGS upon request from the Contractor; or
- Form SI-12, *Certificate of Workers’ Compensation Self-Insurance*, available from the New York State Workers’ Compensation Board’s Self-Insurance Office, or
- Form GSI-105.2, *Certificate of Participation in Workers’ Compensation Group Self-Insurance*, available from the Contractor’s Group Self-Insurance Administrator.

Proof of Compliance with Disability Benefits Coverage Requirements:

- Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the Workers' Compensation Board's website (www.businessexpress.ny.gov/app/answers/cms/a_id/2263/kw/CE200)
- Form DB-120.1, Certificate of Disability Benefits Insurance, sent to OGS by the Contractor's insurance carrier upon request; or
- Form DB-155, Certificate of Disability Benefits Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office.

An instruction manual clarifying the New York State Workers' Compensation Law requirements is available for download at the New York State Workers' Compensation Board's website, <http://www.wcb.ny.gov/content/main/Employers/requirements-businesses-applying-government-permits-licenses-contracts.pdf>.

Group 40625 Award PGB-23345 - Heavy Equipment
ATTACHMENT 4 – CONTRACTOR and RESELLER/DISTRIBUTOR
INFORMATION
(for ordering and contract administration purposes)

NOTE: Contractors MUST submit an updated form to OGS EVERY TIME a reseller/distributor is added or removed. If a contract has Minority- and/or Women-owned Business Enterprise (MWBE) participation goals, in addition to this form, Contractors MUST submit to OGS a completed MWBE 100 form EVERY TIME they add or remove a reseller that has been certified by NYS as an MWBE. The MWBE 100 form is available under the "Commodity & Service Contracts" section at: <https://ogs.ny.gov/mwbe/forms>

Contractor/Company Information	
Company Business Name:	CNH Industrial America LLC
D/B/A – Doing Business As (if applicable):	
Address:	700 State Street, Racine, WI 53404
Company Website:	construction.newholland.com/casece.com
Federal Tax ID #:	76-0433811
NYS Vendor ID #:	1100123548
Contact for Contract Administration issues:	
Contract Administrator Name:	Amy Swett - New Holland /Clint Jenkins - Case IH
Title:	Government Sales Manager
Address (if different from above):	
Email:	amy.swett@newholland.com/ clinton.jenkins@caseih.com
Phone:	815-680-9632 - 937-218-1701
Toll Free Phone:	815-680-9632 - 937-218-1701
Contact for Contract Sales/Billing (if different from above)	
Contact Name:	Amy Swett - New Holland /Clint Jenkins - Case IH
Title:	Government Sales Manager
Address:	
Email:	amy.swett@newholland.com/ clinton.jenkins@caseih.com
Phone:	815-680-9632 - 937-218-1701
Toll Free Phone:	815-680-9632 - 937-218-1701
Business hours (Specify M-F, Sat, Sun):	M-F 8-5PM
Contact for Emergencies	
Contact Name:	Amy Swett - New Holland /Clint Jenkins - Case IH
Title:	Government Sales Manager
Address:	
Email:	amy.swett@newholland.com/ clinton.jenkins@caseih.com
Phone:	815-680-9632 - 937-218-1701
Cell Phone:	815-680-9632 - 937-218-1701
Invoicing (Entity information that will appear on invoices, for orders placed directly with the Contractor, if different from Contractor/Company information above)	
Invoicing Entity Company Name:	CNH Industrial America LLC - Dealers
Federal Tax ID #:	760433811 - dealers will be invoicing
NYS Vendor ID #:	1100123548
Is payment made to the above Entity/Federal ID#? <i>Note: If yes, the invoicing entity NYS Vendor ID MUST be referenced on Purchase Orders</i>	No

**Group 40625 Award PGB-23345 - Heavy Equipment
ATTACHMENT 4 – CONTRACTOR and RESELLER/DISTRIBUTOR INFORMATION
(for ordering and contract administration purposes)**

NOTE: Contractors MUST submit an updated form to OGS EVERY TIME a reseller/distributor is added or removed. If a contract has Minority- and/or Women-owned Business Enterprise (MWBE) participation goals, in addition to this form, Contractors MUST submit to OGS a completed MWBE 100 form EVERY TIME they add or remove a reseller that has been certified by NYS as an MWBE. The MWBE 100 form is available under the "Commodity & Service Contracts" section at: <https://ogs.ny.gov/mwbe/forms>

Contractor/Company Information	
Company Business Name:	CNH Industrial America LLC
D/B/A – Doing Business As (if applicable):	

Contractor locations, subsidiaries, and/or Resellers/Distributors for the Contract are listed below. In order for an Authorized User to obtain MWBE or SDVOB credit, the applicable MWBE or SDVOB Reseller/Distributor MUST be allowed to "Take Orders" AND "Receive Payment" and be entered into SFS with their own NYS Vendor ID #. An MWBE Reseller/Distributor that is noted as a "Broker" in the "Restrictions Applicable to this Contractor Location" field has been identified as a broker in the NYS Directory of Certified Firms located at <https://ny.newmycontracts.com>, and the Contractor and the Authorized User will receive only a 25% MWBE credit for its utilization.

Company Business Name	WBE	MBE	SDVOB	SB	FEIN	NYS Vendor ID	Is this Location a Subcontractor?	Take Orders	Deliver Product	Receive Payment	Over-the-Counter Hours	Street Address	City	Zip Code	County	Contact Name	Telephone Number	Fax Number	Email Address	Restrictions Applicable to this Contractor Location
AKEY TRACTOR COMPANY, LLC				X	810867188	1100305653	yes	X	X	X	M-F 8-5:00	5 LATOUR AVE, STE 200	PLATTSBURGH	12901	Clinton	Nick Avery	518-643-2312		navery@taylorquipmentny.com	
CAPITAL TRACTOR, INC.				X	141742773	1000007120	yes	X	X	X	M-F 7:30 -5:00	1135 State Route 29	Greenwich	12834	Washington	Kevin Armitage	5186929611		karnitage@capitaltractorinc.com	
CHAMBERS TRACTOR SALES, INC.				X	141709028	1000007069	yes	X	X	X	M-F 8-5:00	167 WARD STREET (RTE 17K)	MONTGOMERY	12549	Orange	John Henry	845-457-3094		chamberstractor@gmail.com	
CHAMPLAIN VALLEY EQUIPMENT, INC.				X	03-0224700	1100081406	yes	X	X	X	M-F 8:00-5:00	1437 ROUTE 318	WATERLOO	13165	Seneca	Phill Doty	315-539-7000		pdoty@champlainvalleyequipment.com	
CHAMPLAIN VALLEY EQUIPMENT, INC.				X	03-0224700	1100081406	yes	X	X	X	M-F 8:00-5:00	5072 EAST MAIN STREET ROAD	BATAVIA	14020	Genesee	Tim Call	585-343-1822		tcall@champlainvalleyequipment.com	
CHAMPLAIN VALLEY EQUIPMENT, INC.				X	03-0224700	1100081406	yes	X	X	X	M-F 8:00-5:00	6207 US HWY 11	CANTON	13617	St. Lawrence	Terry Rose	315-379-9119		trose@champlainvalleyequipment.com	
CHAMPLAIN VALLEY EQUIPMENT, INC.				X	03-0224700	1100081406	yes	X	X	X	M-F 8:00-5:00	638 ROUTE 13	CORTLAND	13045	Courtland	Chris Carpenter	607-753-9656		ccarpenter@champlainvalleyequipment.com	
CHAMPLAIN VALLEY EQUIPMENT, INC.				X	03-0224700	1100081406	yes	X	X	X	M-F 8:00-5:00	5 COHOCTON ST	ATLANTA	14808	Stuben	Phill Doty	585-534-5935		pdoty@champlainvalleyequipment.com	
CHAMPLAIN VALLEY EQUIPMENT, INC.				X	03-0224700	1100081406	yes	X	X	X	M-F 8:00-5:00	22537 MURROCK CL	WATERTOWN	13601	Jefferson	Jim Der	315-788-1115		jder@champlainvalleyequipment.com	
Clinton Tractor & Implement Co Inc				X	150614114	1000014727	yes	X	X	X	M-F 7-5:00	31 MEADOW STREET (RT 12B)	CLINTON	13323	Oneida	Joe Martini	315-853-6151		joe@clintontractor.net	
CNY POWER SPORTS, LLC				X	100008304	1000011291	yes	X	X	X	M-F 8-5:00	3865 US ROUTE 11	CORTLAND	13045	Cortland	Eric Law	607-218-0200		eric@cnyfarmssupply.com	
FOSTERDALE EQUIPMENT CORP.				X	141701839	1000007052	yes	X	X	X	M-F 8-5:00	3137 ROUTE 17B	COCHECTON	12726	Sullivan	Lloyd Brucher	845-932-8611		lecacti@gmail.com	Only sells SSL
H. & M. EQUIPMENT CO., INC.				X	141454053	1000013782	yes	X	X	X	M-F 8-5:00	4551 STATE HWY 30	AMSTERDAM	12010	Fulton	Bill Murphy	518-843-1660		bmurphy@Hmesquipment.com	
JACK MILLER'S TRACTOR & TRUCK, INC.				X	141648389	1100038510	yes	X	X	X	M-F 8-5:00	4932 State Route 30	Schoharie	12157	Schoharie	Josh Miller	518-295-7733		millers@midtel.net	
JOHN WIGGERS & SON, INC.				X	161110922	1000007767	yes	X	X	X	M-F 8-5:00	7700 ROUTE 474	CLYMER	14724	Chautauqua	Jacob Wiggers	716-355-2511		johnwiggersir@gmail.com	
LARRY ROMANCE & SON, INC.				X	160990457	1000028523	yes	X	X	X	M-F 8-5:00	2769 RT 20 - BOX 38	SHERIDAN	14135	Chautauqua	Mike Wilson	716-679-3366		tractorsales@netsync.net	
LARRY ROMANCE & SON, INC.				X	160990457	1000028523	yes	X	X	X	M-F 8-5:00	543 W MAIN ST	ARCADE	14009	Wyoming	Bob White	585-492-3810		Bobw@larryromanceandson.com	
LARRY ROMANCE & SON, INC.				X	160990457	1000028523	yes	X	X	X	M-F 8-5:00	5304 STATE ROUTE 417	WOODHULL	14898	Steuben	Jason Gross	607-458-5200		jasong@larryromanceandson.com	
MAIN & PINCKNEY EQUIPMENT, INC.				X	161057977	1000028608	yes	X	X	X	M-F 8:00 - 5:00	7033 MUTTON HILL RD	AUBURN	13021	Cayuga	Greg Komarisky	315-253-6269		REG@MAINANDPINCKN[sells only SSL & CTW only	
Malvese Equipment Co Inc.				X	112587656	1000005724	yes	X	X	X	M-F 7:00 - 4:00	1 HENRIETTA STREET	HICKSVILLE	11801	Nassau	Otto Cooley	516-681-7600		OCOOLEY@MALVESEEQUIPMENT.COM	
Malvese Equipment Co Inc.				X	112587656	1000005724	yes	X	X	X	M-F 7:00 - 4:00	232 E OLD COUNTRY ROAD (RTE 58)	RIVERHEAD	11901	Suffolk	Otto Cooley	631-369-1147		OCOOLEY@MALVESEEQUIPMENT.COM	
Niagara Frontier Equipment Sales Inc.				X	161302268	1000008016	yes	X	X	X	M-F 7:30 - 5	4060 LAKE AVE	LOCKPORT	14094	Niagara	Karl Hetrick	716-434-2000		karl.hetrick@nifesales.com	
Pine Plains Tractor				X	141512952	1100010247	yes	X	X	X	M-F 8-4:30	2786 CHURCH ST. (ROUTE 199)	PINE PLAINS	12567	Dutchess	Brian Pinkey	518-398-7152		brian.pineplainstractor@gmail.com	
RIVER VALLEY NEW HOLLAND, INC.				X	161102728	1000028663	yes	X	X	X	M-F 8-5:30	33785 STATE HIGHWAY 10	HAMDEN	13782	Delaware	Adam Pinkey	607-965-8180		adam.rivervalley@yahoo.com	
RIVER VALLEY NEW HOLLAND, INC.				X	161102728	1000028663	yes	X	X	X	M-F 8-5:30	3910 STATE HIGHWAY 7	OTEGO	13825	Otsego	Adam Pinkey	607-432-8180		adam.rivervalley@yahoo.com	
TRACEY ROAD EQUIPMENT, INC.				X	161058204	1000007710	yes	X	X	X	M-F 8-5:00	300 MIDDLE RD	HENRIETTA	14467	Monroe	Jesse Weller	315-437-1471		jweller@traceyroad.com	
TRACEY ROAD EQUIPMENT, INC.				X	161058204	1000007710	yes	X	X	X	M-F 8-5:00	6803 Manlius Center Road	EAST SYRACUSE	13057	Onondaga	Jesse Weller	315-437-1471		jweller@traceyroad.com	
TRACEY ROAD EQUIPMENT, INC.				X	161058204	1000007710	yes	X	X	X	M-F 8-5:00	19598 CADY ROAD	ADAMS CENTER	13606	Jefferson	Jesse Weller	315-437-1471		jweller@traceyroad.com	
WESTCHESTER TRACTOR, INC.			X	X	132858396	1000006235	yes	X	X	X	M-F 8:00 - 5:00	60 INTERNATIONAL BLVD	BREWSTER	10509	Putnam	Andrew Prusinowski	845-278-7766		andrew@wtractor.com	
Salem Farm Supply, Inc.				X	14-1470854	1000027349	Yes	X	X	X	M-F 8:00-5:00	841 Route 9H	Claverack	12513	Columbia	Jeff Emmerich	(518) 828-1781	518-853-4500	Jeff@randallimpls.com	
Salem Farm Supply, Inc.				X	14-1470854	1000027349	Yes	X	X	X	M-F 8:00-5:00	5109 State Route 22	Salem	12865	Marion	Jeff Emmerich	(518) 854-7424	518-853-4500	Jeff@randallimpls.com	

**Solicitation Number: RFP #082923****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and CNH Industrial America LLC, 700 State Street, Racine, WI 53404 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Ag Tractors with Related Attachments, Accessories, and Supplies from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.

EXPIRATION DATE AND EXTENSION. This Contract expires October 11, 2027, unless it is cancelled sooner pursuant to Article 22. This Contract allows up to three additional one-year extensions upon the request of Sourcewell and written agreement by Supplier. Sourcewell retains the right to consider additional extensions beyond seven years as required under exceptional circumstances.

B. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

A. EQUIPMENT, PRODUCTS, OR SERVICES. Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. **SALES TAX.** Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. **HOT LIST PRICING.** At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Supplier Development Administrator. This approved form is available from the assigned Sourcewell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;

- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Change Request Form will become an amendment to this Contract and will be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized

subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum, the terms of which will be negotiated directly between the Participating Entity and the Supplier or its authorized dealers, distributors, or resellers, as applicable. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Supplier will assign an Account Representative to Sourcwell for this Contract and must provide prompt notice to Sourcwell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcwell and Participating Entity inquiries; and
- Business reviews to Sourcwell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcwell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, performance issues, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcwell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcwell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcwell, the Supplier will pay an administrative fee to Sourcwell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted

price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

C. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. **WAIVER.** Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. **CONTRACT COMPLETE.** This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. INDEMNITY AND HOLD HARMLESS

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any act or omission in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

12. GOVERNMENT DATA PRACTICES

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, maintained, or disseminated by the Supplier under this Contract.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:

- a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.

b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.

2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers, resellers, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

a. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.

b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for products liability-completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms

no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is

primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. **LAWS AND REGULATIONS.** All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. **LICENSES.** Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared

ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in

guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier cannot use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by a Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

22. CANCELLATION

Sourcwell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcwell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcwell

CNH Industrial America LLC

DocuSigned by:
Jeremy Schwartz
By: C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer

DocuSigned by:
Amy Swett
By: 7FCB6D1BF7F04C0...
Amy Swett
Title: Government & Fleet Sales Account Manager

Date: 10/9/2023 | 2:18 PM CDT

Date: 10/9/2023 | 1:07 PM CDT

Approved:

DocuSigned by:
Chad Coauette
By: 48BAF71B0894454...
Chad Coauette
Title: Executive Director/CEO

Date: 10/9/2023 | 2:31 PM CDT

RFP 082923 - Ag Tractors with Related Attachments, Accessories, and Supplies

Vendor Details

Company Name: CNH Industrial America LLC
Address: 700 State Street
Racine, WI 53404
Contact: Clint Jenkins
Email: Clinton.jenkins@caseih.com
Phone: 937-218-1701
Fax: 877-764-1369
HST#: 760433811

Submission Details

Created On: Friday July 21, 2023 07:39:42
Submitted On: Tuesday August 29, 2023 13:36:59
Submitted By: Amy Swett
Email: amy.swett@newholland.com
Transaction #: 1c85424c-896b-44ff-8238-a91e91745472
Submitter's IP Address: 134.238.181.108

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	CNH Industrial America LLC
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	CNH America LLC
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	CNH Industrial America LLC does not have any assumed names or DBA
4	Provide your CAGE code or Unique Entity Identifier (SAM):	10988
5	Proposer Physical Address:	700 State Street Racine, WI 53404
6	Proposer website address (or addresses):	https://www.cnhindustrial.com https://www.caseih.com www.newholland.com
7	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Amy Swett Government & Fleet Sales Account Manager – New Holland AG brand 500 Diller Avenue New Holland, PA 17557 Amy.swett@newholland.com 717-715-2489
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Amy Swett Government & Fleet Sales Account Manager – New Holland AG brand 500 Diller Avenue New Holland, PA 17557 Amy.swett@newholland.com 717-715-2489
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Sam Nichols National Account Manager - Case IH Brand 621 State Street Racine, WI 53402 507-327-9901 sam.nichols@caseih.com

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
10	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	<p>CNH Industrial is a global leader in capital goods that implements design, manufacturing, distribution, commercial and financial activities in international markets. We employ more than 40,000 people in 43 manufacturing plants and 40 research and development centers. Through our 10 brands we make the vehicles that keep agriculture and industry growing. Our global presence and broad reach mean that we can capitalize on opportunities for growth and pursue our ambition to become a leader in our sectors.</p> <p>Prior to CNH Industrial evolving, New Holland and Case IH were separate companies. In 1991 Fiat purchased an 80 percent interest in Ford New Holland and merged it with FiatGeotech to create a huge new industrial equipment entity dubbed N.H. Geotech--though its North American operation kept the name Ford New Holland. The new international behemoth, headquartered in London, instantly</p>

became the world's largest producer of tractors and haying equipment, the second largest producer of combines, and one of the largest producers of diesel engines. N.H. Geotech changed its name to New Holland N.V. in January 1993, although the company's North American operation stuck with the Ford New Holland moniker for two more years.

In 1999 Fiat Group acquires Case Corporation and merges it with New Holland to create CNH Global, a world leader in farm machinery and construction equipment. In 2012, we became CNH Industrial through the merger of Fiat Industrial and CNH Global. In January 2022, CNH Industrial executed the strategic plan to separate the 'On' and 'Off' Highway businesses. CNH Industrial remains focused on the agriculture and construction industries and Iveco Group N.V. is focused on the 'ON' Highway industries.

Case IH's robust history began in 1842 when Jerome Increase Case founded the Racine Threshing Machine Works in Racine, Wisconsin (our current headquarters). Shortly thereafter, in Chicago, Cyrus McCormick founded the McCormick Harvesting Machine Company which will later become International Harvester. In 1902 J.P. Morgan brokered the merger of the McCormick, Deering, and three smaller brands into the International Harvester Company. Throughout the next several decades, Case and International Harvester (IH) continued to lead the market with products such as the Farmall series of tractors which was introduced in 1923. The iconic Farmall letter series tractors were introduced in 1939. Millions of Farmalls were sold, cementing IH as an agricultural icon, not just in North America, but globally.

The mid to late 1900s both companies experienced mergers and acquisitions. The most relevant took place in 1985 when JI Case and IH merged to form Case IH. New products were introduced after the merger. Two longstanding tractor lines were created- the Magnum and Maxxum tractors shortly after the JI Case and IH merger. Steiger corporation was purchased in 1986 which expanded Case IH's line-up to include the unique and well-known four-wheel drive. The revolutionary Case IH Steiger Quadtrac was introduced in 1996. As the 1900's were coming to an end, Case IH celebrated its 150th anniversary.

In 1995 Case IH once again advanced agriculture by bring AFS (Advanced Farming Systems) to the market. AFS was the first platform to use satellites to log and track data in real time in an agricultural application.

New Holland's roots can be traced back to 1895, when handyman Abe Zimmerman made his first feed mill at his New Holland, Pennsylvania repair shop. He called his operation the New Holland Machine Company and incorporated it in 1903. Meanwhile, across the Atlantic, Italian auto maker Fiat was developing a tractor of its own. That company's efforts resulted in the development of the 702, Fiat's first mass produced tractor, which hit the market in 1919.

Approx. 1940, New Holland was purchased by a group of four investors who introducing the world's first successful automatic pick-up, self-tying hay baler. The baler was invented by Ed Nolt and was an instant hit among farmers. New Holland has continued to manufacture updated baler models ever since.

In 1947 New Holland Machine Company was acquired by electronics specialist Sperry Corporation, creating the subsidiary Sperry New Holland. In 1952 Claeys unveiled the first European self-propelled combine harvester, becoming one of the biggest combine manufacturers in Europe by the early 1960s. Sperry New Holland bought a major interest in Claeys in 1964. New Holland would go on to revolutionize harvesting equipment in 1974 with the introduction of the world's first twin rotor combine.

In 1974 Fiat Macchine Movimento Terra launched a joint venture with American manufacturer Allis Chalmers Corporation, called Fiat-Allis. Fiat finally gained entry into the North American market in 1977, with the acquisition of Hesston, a Kansas-based manufacturer of hay and forage machinery.

Ford was also becoming a global force in agricultural equipment. By 1985 Ford Tractor had 9,000 employees and 5,000 dealers, with about one third of each located in the United States.

In 1986 Ford purchased Sperry New Holland and merged it with its Ford Tractor Operations to create a new company, Ford New Holland, Inc. By this time New Holland had grown to become one of the best performing companies in the farm equipment business, with 2,500 dealers and more than 9,000 employees of its own, working in 100 different countries.

Within months of this merger, Ford New Holland added the agricultural division of Versatile Farm and Equipment Co., an agricultural equipment manufacturer that had been founded in Canada in 1947. The combination of Ford's tractors, New

Holland's harvesters, and Versatile's large four-wheel-drive machines created a company that produced a wide spectrum of agricultural equipment.

By 1990 Ford New Holland had 17,000 employees, revenue of \$2.8 billion, and plants in the United States, Canada, Belgium, England, and Brazil, plus joint ventures in India, Pakistan, Japan, Mexico, and Venezuela.

In 1994 New Holland reported net income of \$355 million on sales of \$4.7 billion. Fiat eventually acquired the other 20 percent of New Holland previously owned by Ford, and in 1995, the 100th anniversary of the New Holland brand name, Ford New Holland was rechristened New Holland North America.

Operating as a wholly owned subsidiary of Fiat, New Holland brought in just more than \$5 billion in sales in 1995. By this time, the company-controlled 21 percent of the world market for agricultural tractors, 17 percent of the world market for combines, 42 percent of the market for forage harvesters, and significant shares of the world markets for just about every other category of agricultural or construction equipment.

By 1996 New Holland was selling about 280 different products in 130 countries around the world. Globally, 5,600 dealers were selling the company's agricultural equipment and 250 selling construction machinery.

CNH Industrial's powertrain division – Fiat Powertrain Technologies – provided solutions to meet EPA Tier 4 emission requirements for shipments in 2010. The FPT solution only used Selective Catalytic Reduction technology.

New Holland brand celebrated the 20th anniversary of the GENESIS tractor in 2013 by introducing the new GENESIS T8. True to the GENESIS legacy, the GENESIS T8 Series once again redefines what is possible.

2016 CNH Industrial reveals autonomous concept vehicles at the Farm Progress show. The New Holland concept kept a fully functional cab while the Case IH concept showed a tractor without a cab.

In 2018 Case IH and New Holland released combine harvesters offering automation technology which adapts and reacts to the ever-changing crop conditions. The automation simplifies harvesting by sensing and optimizing machine settings — regardless of operator skill level.

CNH Industrial acquires Raven Industries in November 2021. Raven was founded over 65 years ago and has created a leadership position in precision agriculture, high performance specialty films, and aerospace and defense solutions. Raven Industries is headquartered in Sioux Falls, South Dakota. The acquisition builds upon a long partnership and is an important milestone in CNH Industrial's digital transformation.

2022 CNH Industrial and Raven preview the Trident Combo Applicator with Raven Autonomy at the Farm Progress show. The integrated technology allows for improved efficiency to meet the ever challenging labor needs.

CNH Industrial's Tech day in 2022 saw the debut of its first liquefied Natural Gas tractor and previewed a path to electrification.

For more information on the robust history of CNH Industrial and its brands, please refer to the below following link. [CNH Industrial - Our History](#)

11	What are your company's expectations in the event of an award?	<p>When CNH Industrial is awarded the Sourcewell contract, we expect to continue to achieve an overall sales growth. Throughout the pandemic and component parts not reaching our plants in a timely manner, our dealers along with CNH field staff searched for products from other locations to satisfy customer needs. Even during this trying time, we still saw growth in our Sourcewell contract. We plan to continue this growth cycle in 2023. CNH Industrial announce a culture transformation where everyone's voice will be heard.</p> <p>We have five new beliefs Customer first, grow together, one team, make it simple, be the best. This is exactly what we are planning to do with this contract. We want our customers to walk into our dealerships and be heard. Get the product they want and make it an effortless process with Sourcewell. We will continue to partner with Government Solutions Team (GST) where we have done more training in 2022 and plan to continue to follow that process in 2023. Their training includes web training, ride-a-longs to help educate the sales teams and the customers in addition to training new or re-train dealers within their first 60 days. Additional emphasis will go to getting our dealers to attend GTKU's and universities to round out their knowledge of the contract and how to use it to drive the contract's need. We are also going to target and engage with the government entities to get our Sourcewell contract adopted versus these entities having their own contract.</p>	*
12	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	<p>Our Full Year Financials(*) reflect the success of the company's efforts across both our segments. Consolidated revenues were \$23.6 billion - up 21% from the previous year. Net income - \$2 billion - and earnings per share - \$1.49 - were the highest in our company's history. This solid growth is reflective of strong end markets and the sharp execution of our strategy.</p> <p>Find Attached: *2021 CNH Industrial Annual Report *2022 CNH Industrial Annual Report</p>	*
13	What is your US market share for the solutions that you are proposing?	CNH Industrial America US Market share in 2022 was 28%	*
14	What is your Canadian market share for the solutions that you are proposing?	CNH Industrial Canada Market share in 2022 was 15%	*
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No	*
16	<p>How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.</p> <p>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?</p> <p>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?</p>	<p>CNH Industrial is the manufacturer of the equipment offered in this proposal. CNH Industrial has 1546 North American dealers that provide sales and service to our customers. Our dealers offer parts and service through the post-sales support. CNH Industrial imposes strict contract regulations and standards (Pinnacle) which we hold our dealers accountable for all interactions with our customers. This includes sales, service, parts, marketing and operations.</p>	*

17	<p>If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.</p>	<p>CNH Industrial has a focus on quality products, sustainability, and human resources. CNH Industrial does not just hold itself to these standards, but also its suppliers. In 2021, the Company continued to pursue and maintain the certification of its plants' environmental management systems as per the ISO 14001 international standard. To date, every CNH Industrial manufacturing plant currently in operation and falling within the scope of application of the Sustainability Report is ISO 14001 certified (see pages 237-240).</p> <p>In addition to the systematic management of environmental aspects under normal operating conditions, the ISO 14001-certified environmental management system requires the adoption and regular verification of emergency plans and procedures, and related staff training. These procedures define roles, responsibilities, and responses when tackling anomalous and/or emergency situations, to protect both people and the environment.</p> <p>The environmental certification maintenance process entails a series of external third-party audits, carried out by accredited bodies, with annual monitoring and certification renewal every 3 years. Additionally, plants are required to perform an internal audit every year to verify the performance of their environmental management system; this is the case, for example, in North America and Europe, where such systems are regularly audited by teams of Environment, Health and Safety (EHS) representatives from the operational units, coordinated by specialists from the central EHS function.</p> <p>Individual health and safety targets were included in the performance and leadership management system (see page 31) of both plant managers and of most of the managers responsible for the projects indicated in the 2021 sustainability plan. The Company's certification of its occupational health and safety management systems as per the ISO 45001 international standard is voluntary and covers 58 CNH Industrial manufacturing plants worldwide, accounting for 45,521 employees.</p> <p>Certifications are awarded by accredited international bodies (in turn continuously and rigorously monitored by other international organizations) that review and certify the high levels of reliability and of operational and procedural standards. In 2021, the occupational health and safety management systems at some non-manufacturing sites were ISO 45001 certified, accounting for 5,684 employees at 12 different sites and locations. In total, 70 CNH Industrial sites worldwide (manufacturing and non-manufacturing) are now ISO 45001 compliant – covering 51,205 employees (about 75.9% of the employees within the reporting scope), 5,388 contractors, and 7,190 agency workers (representing, respectively, 97% and 91% of the relative populations within the reporting scope) – as are all joint venture plants in which CNH Industrial has at least a 51% interest.</p> <p>CNH Industrial also holds its suppliers to a high standard in regard to both human resources and sustainability. Please see the attached files for CNH Industrial's Sustainability Plan and Supplier Code of Conduct for more information.</p>
18	<p>Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.</p>	<p>CNH Industrial has not been suspended or debarred.</p>

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *																																																
19	<p>Describe any relevant industry awards or recognition that your company has received in the past five years</p>	<table border="1"> <thead> <tr> <th>Organization</th> <th>Year</th> <th>Award</th> <th>Product</th> </tr> </thead> <tbody> <tr> <td>https://www.asabe.org/AE50</td> <td></td> <td></td> <td></td> </tr> <tr> <td>AE50</td> <td>2021</td> <td>Outstanding Innovation</td> <td>WD5 Series Self-Propelled Windrower Case IH</td> </tr> <tr> <td>AE50</td> <td>2021</td> <td>Outstanding Innovation</td> <td>CNHI Horizon Ultra Tractor Cab</td> </tr> <tr> <td>AE50</td> <td>2021</td> <td>Outstanding Innovation</td> <td>Case IH Patriot 50-Series Sprayers</td> </tr> <tr> <td>AE50</td> <td>2021</td> <td>Outstanding Innovation</td> <td>Case IH Fast Riser 6100 3 section front fold planter</td> </tr> <tr> <td>AE50</td> <td>2020</td> <td>Outstanding Innovation</td> <td>Sieve Pressure Visualization - Case IH</td> </tr> <tr> <td>AE50</td> <td>2020</td> <td>Outstanding Innovation</td> <td>LB436 HD Lg Sq Baler - Case IH</td> </tr> <tr> <td>AE50</td> <td>2020</td> <td>Outstanding Innovation</td> <td>NH Triple Clean Cleaning System</td> </tr> <tr> <td>AE50</td> <td>2020</td> <td>Outstanding Innovation</td> <td>Case IH MltiControl Armrest</td> </tr> <tr> <td>AE50</td> <td>2020</td> <td>Outstanding Innovation</td> <td>Case IH Fast Riser 6100 Front Fold Planter</td> </tr> <tr> <td>AE50</td> <td>2020</td> <td>Outstanding Innovation</td> <td>Case IH AFS Connect</td> </tr> </tbody> </table>	Organization	Year	Award	Product	https://www.asabe.org/AE50				AE50	2021	Outstanding Innovation	WD5 Series Self-Propelled Windrower Case IH	AE50	2021	Outstanding Innovation	CNHI Horizon Ultra Tractor Cab	AE50	2021	Outstanding Innovation	Case IH Patriot 50-Series Sprayers	AE50	2021	Outstanding Innovation	Case IH Fast Riser 6100 3 section front fold planter	AE50	2020	Outstanding Innovation	Sieve Pressure Visualization - Case IH	AE50	2020	Outstanding Innovation	LB436 HD Lg Sq Baler - Case IH	AE50	2020	Outstanding Innovation	NH Triple Clean Cleaning System	AE50	2020	Outstanding Innovation	Case IH MltiControl Armrest	AE50	2020	Outstanding Innovation	Case IH Fast Riser 6100 Front Fold Planter	AE50	2020	Outstanding Innovation	Case IH AFS Connect
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		AE50 2020 Outstanding Innovation Big Baler 340 High Density - NH	
		AE50 2020 Outstanding Innovation 24-Row Air Pack System for Case IH Fertilizer Applicators and Air Carts	
		AE50 2019 Outstanding Innovation Precision Disk 500DS Case IH	
		AE50 2019 Outstanding Innovation AFS Soil Command Case IH	
		AE50 2019 Outstanding Innovation New Holland Intelligent Trailer Brake System	
		AE50 2019 Outstanding Innovation Axial- Flow 250 Series Combine	
		AE50 2019 Outstanding Innovation IntelliSense CNHI	
		AE50 2018 Outstanding Innovation CVX Drive	
		Steiger/Quadtrac Case IH	
		AE50 2018 Outstanding Innovation Custom Steer NH	
		AE50 2018 Outstanding Innovation Gaudian SP310F Front Boom NH	
		AE50 2018 Outstanding Innovation IntelliTurn Auto End of Row Turn System NH	
		AE50 2018 Outstanding Innovation Optispread Plus Residue Management NH	
		AE50 2018 Outstanding Innovation Dynamic Command Transmission NH	
		AE50 2018 Outstanding Innovation 2100 Series Split Row Lift System	*
		AE50 2018 Outstanding Innovation Nutri-Placer 930 HSLD Fertilizer Applicator Case IH1	
		AE50 2018 Outstanding Innovation Trident 5550 Liquid/Dry Combination Applicator Case IH	
		AE50 2017 Outstanding Innovation 4400 Series Corn Head Stralk Roll Spirals Case IH	
		AE50 2017 Outstanding Innovation New Holland CR/CX Combine Everest Leveling System	
		AE50 2017 Outstanding Innovation IntelliBale ISOBUS Class 3 Automation Round Baler NH	
		AE50 2017 Outstanding Innovation SmartTrax Flex Technology CX/CR Combines NH	
		AE50 2017 Outstanding Innovation T7 Enhanced Engine Brake NH	
		AE50 2017 Outstanding Innovation Aux. Alternator Automation Early Riser Planters Case IH	
		AE50 2017 Outstanding Innovation Extended Wear Rotor Axial Flow Combines Case IH	
		AE50 2017 Outstanding Innovation Rowtrac Carrier System Early Riser Planters Case IH	
		AE50 2017 Outstanding Innovation Tiger-Mate 255 Field Cultivator Case IH	
		https://tractoroftheyear.org/	
		Tractor Of the Year Award 2023 Best of Specialized New Holland T4.120F	
		Tractor Of the Year Award 2022 Sustainable Toty New Holland T6.180 Methane Power	
		Tractor Of the Year Award 2020 Sustainable Toty New Holland Methane Power	
		Tractor Of the Year Award 2020 Best of Specialized New Holland T4.110N	
		Tractor Of the Year Award 2019 Tractor Of the Year Maxxum 145 Active Drive 8	
		Tractor Of the Year Award 2019 Best Design Maxxum 145 Active Drive 8	
		http://ifw-expo.de/exhib/ciame-2019/	
		CIAME 2018 Most Influential Brand NA	
		CIAME 2017 Most Influential Brand NA	
		https://www.wisbusiness.com/2018/cnh-industrial-achieves-wisconsin-green-masters-level-status/	
		Wisconsin Sustainability Award 2018 Green Master Wisconsin Plant	
		Wisconsin Sustainability Award 2020 Green Master Wisconsin Plant	
		Wisconsin Sustainability Award 2021 Green Master Wisconsin Plant	
		Wisconsin Sustainability Award 2022 Green Master Wisconsin Plant	
		Wisconsin Sustainability Award 2023 Green Master Wisconsin Plant	
20	What percentage of your sales are to the governmental sector in the past three years	CNH Industrial government US & Canada sales combined over three years are: 2022 25% 2021 24% 2020 22%	*

21	What percentage of your sales are to the education sector in the past three years	CNH Industrial America brands does not have the capability to pull out the educational percentage, but it is calculated into our sales to the government above.	*
22	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	<p>New Holland Contracts</p> <p>NH Sourcewell Contract</p> <p>2022 \$8.3 M</p> <p>2021 \$5.1 M</p> <p>2020 \$4.8 M</p> <p>NH Michigan Contract</p> <p>2022 < \$50,000</p> <p>2021 < \$80,000</p> <p>2020 < \$200,000</p> <p>NH Ohio Contract</p> <p>2022 < \$340,000</p> <p>2021 < \$510,000</p> <p>2020 < \$520,000</p> <p>NH North Carolina Contract</p> <p>2022 < \$50,000</p> <p>2021 < \$50,000</p> <p>2020 < \$50,000</p> <p>NH South Carolina Contract</p> <p>2022 < \$190,000</p> <p>2021 < \$250,000</p> <p>2020 < \$60,000</p> <p>NH Pennsylvania Contract</p> <p>2022 < \$365,000</p> <p>2021 < \$61,000</p> <p>2020 < \$470,000</p> <p>BuyBoard-AG</p> <p>2020 \$350,000</p> <p>2021 \$365,000</p> <p>2022 \$455,000</p> <p>HGAC-AG</p> <p>2020 \$-</p> <p>2021 \$-</p> <p>2022 \$-</p> <p>NH FL State Contract</p> <p>2020 \$20,000</p> <p>2021 \$250,000</p> <p>2022 \$25,000</p> <p>NH GA State Contract</p> <p>2020 \$-</p> <p>2021 \$55,000</p> <p>2022 \$30,000</p> <p>NH LA State Contract</p> <p>2020 \$250,000</p> <p>2021 \$850,000</p> <p>2022 \$3,000,000</p> <p>NH MS State Contract</p> <p>2020 \$700,000</p> <p>2021 \$1,000,000</p> <p>2022 \$1,400,000</p> <p>NH OK State Contract</p> <p>2020 \$65,000</p> <p>2021 \$400,000</p> <p>2022 \$100,000</p> <p>NH NVP-AG</p> <p>2020 \$465,000</p> <p>2021 \$760,000</p> <p>2022 \$210,000</p> <p>Case IH Contracts</p> <p>Case IH Sourcewell</p>	*

		2022 \$22.4 M 2021 \$21.2 M 2020 \$13.6 M Case IH Missouri DOT 2022 \$321,000 2021 \$950,000 2020 \$0 Case IH Minnesota DOT 2022 \$171,000 2021 \$953,000 2020 \$1.1M Case IH South Carolina DOT 2022 \$0 2021 \$312,000 2020 \$0	
23	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	Case IH GSA 2022 \$2.6 M 2021 \$3.9 M 2020 \$3.9 M	*

Table 4: References/Testimonials

Line Item 24. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
Erie Water Works	Ann Whipple	814-870-8016	*
Central Procurement-Enterprise Sourcing - MI	Yvon Dufour	517-249-0455	*
LA Department of Transportation & Development Section 42 - Equipment	Jarrett Lambert, P.E.	225-935-0248	*

Table 5: Top Five Government or Education Customers

Line Item 25. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
Louisiana DOT	Government	Louisiana - LA	Mowing and other DOT related activities	27	\$1,970,000	*
Ministry of Highways	Government	SK - Saskatchewan	Mowing and other DOT related activities	31	\$5,130,000	*
Rural Municipalities	Government	SK - Saskatchewan	Mowing and other DOT related activities	19	\$4,018,000	*
Town of Ocean City	Government	Maryland - MD	Beach Cleaning	16	\$5,319,000	*
ND DOT	Government	North Dakota - ND	Mowing and other DOT related activities	28	\$3,871,000	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *

26	Sales force.	<p>CNH Industrial field sales force is comprised of employees of the company as well as third party employees of our dealer network who cover the entire US and Canada. Our Field Sales Force are fully focused on the sale of CNH Industrial through our Dealer Networks to our end user.</p> <p>The New Holland Agriculture Field Sales team is comprised of 1 Senior Sales Director, 5 Region Sales Directors, 41 Territory Business Managers, 5 Business Sales Specialists, 6 Dealer Development Managers, 8 Regional Product Specialists and 20 Technical and Specialty Field Managers.</p> <p>Case IH Agriculture is made up of 1 Senior Sales Director, 5 Regional Sales Directors, 5 National Account Managers, 49 Territory Sales Managers, 5 Business Sales Specialists, 5 Dealer Development Managers, 35 Product Specialists and 10 Specialty Sales Managers.</p> <p>Each independent CNH Industrial dealer supports its local customer base with its own sales, product support and service personnel.</p>	*
27	Dealer network or other distribution methods.	<p>Case IH and New Holland Agriculture has a dedicated dealer network comprised of 1546 locations strategically placed across North America. Each one of these locations is fully dedicated and trained to sell and support Case IH and New Holland Agriculture products covered in this RFP.</p> <p>Our independent Dealer network is primarily located in rural North American communities. Many of the principals, their staff and customers hold positions on their local city, village, township, county boards, school boards and positions within their churches, non-profit camps and Fair Boards, and non-profit organization, such as Scouts, 4-H, Ducks Unlimited, etc. The efforts and plans of GST to engage and train the CNHi dealer network from the top down carries the value of our Sourcewell contract through to these community officials who need to purchase equipment efficiently.</p> <p>CNH Industrial supports our authorized dealer networks with 79 professional Field Service Managers.</p> <p>Each CNH Industrial dealership is staffed with parts and service personnel trained to support the products in their sales area of responsibility. The CNHi dealer network supports the continental United States, Hawaii, Alaska and Canada. Dealer service personnel are factory trained as well as have access to "ASIST", a technical database that helps technicians quickly diagnosis product failures through the experience of the CNHi technical advisors and fellow dealers. All core CNHi products are further supported by the Customer Care contact phone numbers Case IH 1- 877-422-7344, New Holland Agriculture 1-888-365-6423.</p>	*
28	Service force.	<p>CNH Industrial field service force is comprised of employees of the company as well as third party employees of our dealer network who cover the entire US and Canada. Our Field Service Force are fully focused on the sale of CNH Industrial through our Dealer Networks to our end user.</p> <p>The New Holland Agriculture Field Service team is comprised of 1 Director of Field Service and Parts, 5 Regional Managers, 31 Service Managers, and 4 Service Connect.</p> <p>Case IH is made up of 1 Director of Field Service and Parts, 5 Regional Managers, 48 Field Service Manager and 2 Service Connect.</p> <p>Each independent CNH Industrial dealer supports its local customer base with its own sales, product support and service personnel.</p>	*
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	<p>CNH Industrial ordering process will be handled by our dealer network. The members will go directly to their local dealership when the PO is approved. Their local dealer will then place the order through the eEquipment program which then is sent to the plant and our Order Management department. From there it will be placed into a production schedule. Dealers can monitor the orders from eEquipment to see when the product will be scheduled and when it will be shipping.</p>	*

30	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	<p>Customer service begins with our strong parts and service depots networks. Worldwide we have 29 parts and service depots that support our customers. The parts and service depots are strategically located for optimum logistical support. Our dealers are held to high standards through our Pinnacle parts and service program. CNH Industrial with the help of an outside company constantly monitors fill rates of parts throughout our network, benchmarking 96.6% fill as a KPI (Key Performance Indicator). If a part becomes unavailable in a reasonable time frame other resources are deployed. One resource is BDA (Break Down Assistance). When triggered, BDA escalates the part needed to an "emergency" status. This part can now be delivered from any non North American depot. Loaners can also be provided to customers. This ensures that even if the part is overseas and the time to fix the unit is not satisfactory, the customer will have uninterrupted uptime.</p> <p>CNH Industrial is at the initial stages of additive manufacturing (3D Printing). We have printers at our engineering lab and low volume manufacturing facility in NAFTA. Our plans include printing on demand closer to our depots to be on the leading edge of technology and deliver best in class experiences for our customer base.</p>	*
31	Describe your ability and willingness to provide your products and services to Sourcwell participating entities in the United States.	<p>CNH Industrial has been selling and servicing members in the United States through our Sourcwell contract over 12 years. We offer a full array of Agriculture products and services through our network of local dealers. We have partnered with Government Solutions Team (GST) to train our dealer network along with our Territory Sales Managers.</p> <p>GST is dedicated to its mission of delivering comprehensive education and support to CNH dealers and their government customers on the advantages of using Sourcwell. GST's staff undergoes extensive training on Sourcwell, guaranteeing the provision of precise and current information. They are committed to being readily available at all times, empowering CNH dealers to boost sales through the utilization of Sourcwell.</p>	*
32	Describe your ability and willingness to provide your products and services to Sourcwell participating entities in Canada.	<p>CNH Industrial has been selling and servicing members in Canada through our Sourcwell contract for over 12 years. Our company offers a price book series in Canadian dollars. We also offer a full array of Agricultural products and services through our network of local dealers. Our financing and leasing teams live in Canada. This ensures the members are working within the regulations of the Canadian rules. With the assistance of Sourcwell and Canoe Procurement Group and Government Solutions Team (GST), we are expanding our marketing and training efforts and dealer presence throughout Canada.</p> <p>GST is dedicated to its mission of delivering comprehensive education and support to CNH dealers and their government customers on the advantages of using Canoe. GST's staff undergoes extensive training on Canoe, guaranteeing the provision of precise and current information. They are committed to being readily available at all times, empowering CNH dealers to boost sales through the utilization of Canoe.</p>	*
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	We will be serving all locations throughout the United States and Canada.	*
34	Identify any Sourcwell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	We will be serving all Sourcwell and Canoe Procurement Group of Canada members.	*
35	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	CNH Industrial will service all of Hawaii, Alaska, US, and Canada in all market segments. Shipping and delivery expense calculation used for offshore transactions, Alaska, and Hawaii.	*

Table 7: Marketing Plan

Line Item	Question	Response *
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36	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	<p>We promote Sourcewell to our sales team and dealer network to our customers. Our sales teams attend regional training, webinars or in-person training. Our dealers will be trained by CNH Industrial government sales managers or their Territory Sales Manager through onsite training, webinars or phone calls.</p> <p>We have partnered with Government Solutions Team GST that will conduct Sourcewell training for our dealers. Their training varies on the requests of the dealers. Training can be done in-person, phone call, or webinars. GST provides a variety of touch points with our dealers such as a weekly text message on government topics. The training GST provides our dealers is not once and done, they do a basic training then offer additional trainings on how to sell and not to take no for an answer, etc.</p> <p>We work with both Sourcewell and Canoe to provide marketing material to our dealers and GST is working on a dealer infographic that provides key information regarding Sourcewell's contract that will help dealers sell to their customer.</p> <p>New Holland AG has a government website www.newhollandgovsales.com that provides information on state, local, federal, cooperative and non-profit contracts. Sourcewell information can be found there. New Holland Ag also provide a Government Fleet Brochure. New Holland Ag also list information on our Dealer's portal regarding the Sourcewell contract.</p> <p>Case IH also has a government website www.caseih.com/en-us/unitedstates/company/government-business which provides details regarding Sourcewell. The dealers will have access to government business fleet sales brochure through their dealer portal.</p> <p>Fleet Brochure and Picture of Dealer Portal uploaded for your review</p>
37	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<p>CNH Industrial incorporates several uses of technology, digital data, social media and data to drive market awareness, target prospective sales, train our teams and customers, and perform community outreach. CNH Industrial has dedicated websites for both New Holland and Case IH products and services. These websites allow prospects to build equipment to their specifications, locate dealers and have direct contact information to each brands government representative. Our social media presence spans from Instagram, Facebook, Twitter and LinkedIn. We follow, like and share Sourcewell media along with other industry leaders to promote a full support system to our teams, dealers and the community. These media platforms help keep our brands at the top of the minds of our prospects, current customers and the community.</p> <p>CNH Industrial also utilizes data from Association of Equipment Manufacturers (AEM) on governmental and non-profit sales. This data provides sales activities and allows the company to pinpoint high- density sales areas. The data also allows us to understand our effectiveness in the marketplace in comparison to our top competitors. By analyzing this data, we can shift strategies and continue to focus where we are successful.</p> <p>Another source of data acquisition is from our government bid services. The company invests in these services to gain a competitive advantage and to help us direct opportunities to the Sourcewell contract. The services allow us to see the members future requirements, prior to the requirement hitting the street. By understanding the member's needs, our dealer network can reach out and build relationships and offer the Sourcewell contract as a solution to fulfilling the members bid process.</p> <p>Finally, we conduct training and post videos online to reach a maximum audience within our network to keep our teams "in the know" as quickly as possible. Our first measure of offense is to get information out quickly in order that the members always have the most current information. GST along with our Government Sales Managers work with our teams daily through these trainings, videos and emails to help them understand their market and the opportunities that exist.</p>

38	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	<p>CNH expects Sourcewell to promote the contract by allowing members to easily locate our contract through the landing pages on the Sourcewell website, through publications, social media, digital media, shows and events. We would also like to see Sourcewell's continued involvement in more state adoptions of the contract in the US and Association adoptions in Canada. Promoting the contract through the GTKU's and Universities, we have realized, is an excellent value Sourcewell provides to the promotion and education efforts. Being able to utilize the contract manager for trainings is of great value as well. Communicating how the contracts are being adopted and by whom is another important role Sourcewell can provide. The annual H2O conference is an excellent networking opportunity for the vendor teams to come together and share lessons learned, wins and best practices and we hope those continue. Our expectation of Sourcewell when members inquire directly is to take the opportunity to thank them and appreciate them and the needs they have, answer any questions the contract manager can answer and provide our contact information to the member. We would like our Supplier Development Specialist to follow up with an email or call to us on who called, their contact information and what they needed. This allows us to continue the sales process by reaching out to them as this will show the member, they have a team with Sourcewell and CNHi in which they can count on for solutions.</p> <p>We plan to integrate the contract in our renewed training efforts with our North American CNHi and dealer sales teams. We will plan time to discuss our Sourcewell contract at sectional and regional CNHi dealer and sales meetings. Our focus is going to be on education, training and more marketing material given out to customers as well as we plan to be more visible to the members in this market segment, government, education and non-profits. We are placing a focus on our business in Canada and working with an industry leader on government mowing attachments which will give us additional products in this market area. We believe we are fully integrated within our ordering process as we have written processes on how to place Sourcewell orders through our dealer and CNHi systems which will be included in the training of the teams.</p>
39	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	<p>Not at this time. Our contract is awarded through our dealer level and this places too many variables. We have had conversations with NASPO to see if there is a way to work on an industry standard. Some of the states have already started going to the e-procurement system but with our highly configured products, it is difficult to work within their perimeters.</p>

Table 8: Value-Added Attributes

Line Item	Question	Response *
40	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	<p>CNH Industrial holds product training and customer experience events throughout the year. Any dealer, current customer or potential customer can attend these events. At the corporate training facilities or the servicing dealer level, Operator and Maintenance training can be specifically structured for the customer. The servicing dealer provides base machine operation and maintenance training as part of the purchase and delivery. If additional training is needed, it can be purchased through the local dealership.</p>

41	Describe any technological advances, safety features, autonomous solutions, or other smart solutions that your proposed products or services offer.	<p>Our acquisition of Raven, a leader in precision agriculture technology, has accelerated this transformation. For example, our autonomous spreader, launched in fall 2022, fertilizes fields under its own control, and our autonomous grain cart technology, launched in fall 2021, enables a combine harvester to call, and control, the tractor and trailer into which it unloads grain, and keep them perfectly in sync as it travels along the field. These technologies bring farmers greater yields while using less resources – including pesticides – and they save time, effort and money.</p> <p>Alongside our advancements in precision agriculture, CNH Industrial remains at the forefront of innovation in alternative sources of power. We were the first manufacturer to offer 100% biodiesel compatibility on all agricultural products in 2007, the first to develop a hydrogen prototype tractor in 2009, and the first to commercialize a methane powered tractor in 2021. These compressed methane tractors are helping farmers farm efficiently and sustainably. As biomethane can be generated on the farm from waste the farm produces – such as animal or crop residue – farmers can use it to make their own fuel, rather than purchasing it on the open market. And this process also generates additional savings since it produces 100% natural and free fertilizer as a direct by-product.</p> <p>Our latest innovation in this space is our introduction of the first tractor prototype that runs purely on liquefied methane– the New Holland T7 Methane Power LNG. When methane is liquified, more fuel can be stored in the same space, enabling tractors to work for longer in the fields. When fueled by methane produced from slurry, the T7 tractor has a negative carbon footprint in the operation phase because its energy source is a ‘pollutant’ that would otherwise have gone into the atmosphere.</p> <p>New Holland has produced the world's first 100% methane powered T6 tractor which is available to order in 2023. The torque and power are the same levels as its diesel equivalent plus you will benefit from up to 30% lower running costs. Producing 98% less particulate matter, reducing CO2 emissions by 11% and overall emissions by 80%, when using biomethane near-zero CO2 emissions are achievable.</p> <p>This is just a few ways we are proving that sustainability enables more effective and profitable performance for our customers. We are passionate about sustainable innovation not just in agriculture, but also in construction equipment, where we recently launched our first full-electric mini excavator through our Sampierana construction business.</p>
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42	Describe any industry-specific quality management system certifications obtained by your organization.	<p>CNH Industrial certificate of its occupational health and safety management systems as per the ISO 45001 international standard is voluntary and covers 31 manufacturing plants worldwide, accounting for 23,606 employees.</p> <p>As of December 31, 2022, 30 CNH Industrial plants were ISO 9001 certified. To achieve its quality standards, CNH Industrial devised a robust supply chain management process to ensure the procurement of quality components, which are essential for the production of equipment that meets the high standards demanded by customers.</p> <p>In 2022, the Company continued to pursue and maintain the certification of its plants' environmental management systems as per the ISO 14001 international standard. To date, every CNH Industrial manufacturing plant currently in operation and falling within the scope of application of the Sustainability Report is ISO 14001 certified.</p> <p>In addition to the systematic management of environmental aspects under normal operating conditions, the ISO 14001-certified environmental management system requires the adoption and regular verification of emergency plans and procedures, and related staff training. These procedures define roles, responsibilities, and responses when tackling anomalous and/or emergency situations, to protect both people and the environment.</p> <p>The impact on water resources is an integral part of each plant's environmental assessment, as required by the ISO 14001 standard; for this reason, all 31 ISO 14001-certified plants have a water management plan in place.</p> <p>By the end of the 2022 certification period, CNH Industrial had maintained the certification of its 30 plants according to the ISO 50001:2018 standard, representing 100% of the Company's Operations energy consumption.</p> <p>The main advantage of ISO 50001 certification is the systematic approach it provides to continuous improvement in energy performance: a more efficient and rational use of energy translates into economic benefits and fewer greenhouse gas emissions (GHG). Voluntary compliance with the ISO 50001 standard reflects CNH Industrial's determination to manage its business sustainably, as recognized globally by its inclusion in the Dow Jones Sustainability Index as Industry Leader and by its presence in the A-list of the CDP Climate Change program.</p> <p>In 2022, the reporting and monitoring of GHG emissions and energy consumption continued through voluntary compliance with the Corporate Accounting and Reporting Standard of the WBCSD9 and WRI10 (GHG Protocol) and with ISO 14064 standards, covering 100% of CNH Industrial's energy consumption.</p> <p>In 2022, CNH Industrial reported a total energy consumption¹² of 3,771 TJ, an increase of approximately 6.7% over the previous year due to an increase in production of 13.6%. CNH Industrial's energy performance, measured as the Company's total internal energy consumption divided by total manufacturing hours, improved by approximately 4.4%. This outcome was the result of the successful ISO 50001 energy management system adopted by the Company, as well as of the energy efficiency projects realized.</p> <p>For more information about industry specific quality management system please read our Sustainability 2022 report.</p>
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43	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>In addition to the technological advances listed in section #41, CNH Industrial employees take into consideration the environment, people, and the local communities in which they operate when performing their daily business activities. CNH Industrial's business partners are encouraged to follow the same approach.</p> <p>CNH Industrial identified 4 sustainability priorities derived by grouping the material topics by theme to facilitate and simplify the interpretation of stakeholders' expectations and make the Materiality Matrix a truly effective business tool. These 4 sustainability priorities are: carbon footprint, to reduce the emissions generated by plants, logistics, and products; occupational safety, to minimize the risk of injury in the workplace through effective preventive and protective measures; life cycle thinking, to use resources fully and for as long as possible through a circular product life cycle approach; and people engagement, to actively involve employees, suppliers, and local communities alike. The sustainability priorities are further driven by the aspirational goals, seen as an objective to strive for over the long-term. In order to achieve them, senior management included 11 challenging targets for year-end 2024 in the Company's Strategic Business Plan, to further underscore CNH Industrial's commitment to sustainability.</p> <p>CNH Industrial was included in the 2023 S&P Global Sustainability Yearbook with the highest score in the Machinery and Electrical Equipment Industry and placed in the top 1% of over 7,800 companies assessed. Furthermore, CNH Industrial was included in the A List of the CDP Climate Change program, received an MSCI ESG Rating of AAA, was awarded ISS ESG Prime status, and was a responder to the 2022 Workforce Disclosure Initiative (WDI). We were proud to see our sustainability efforts receive further acknowledgment in 2021. We were included in the Dow Jones Sustainability Indices (DJSI) World and Europe for the 11th consecutive year with the top score in our industry. Both the CDP Climate Change and Water Security programs also included us in their A-lists in recognition of our commitment to mitigating and cutting greenhouse gas emissions along our value chain and to protecting water security.</p> <p>Our focus is on reducing the total emissions our products generate during their operational lifetime, as this is how we can make the biggest reduction in our CO2 footprint. We are also curbing our operational emissions through investments in energy efficiency and solar power, which have increased our operations' use of renewable electricity to 60%. Our plants also increased their recovery of waste (materials, water, energy) to 96.5% at a global level, through efforts such as our painting processes now reusing over 50% of their water. In addition, we continued to make progress on our goal to design all new products according to sustainable criteria by 2024. Set by our internal Eco-Design working group, these criteria include product development and manufacturing processes, material validation, and manufacturing processes, among many others. We are also committed to ensuring that 90% of each fully produced machine can be recycled by 2030.</p> <p>More information can be found in our Sustainability reports or visit https://www1.cnhindustrial.com/en-us/sustainability/our_approach_to_sustainability/Pages/default.aspx</p>
44	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	<p>In addition to the green initiatives listed in section #43, CNH Industrial continues to support conservation efforts with third parties. For a decade, the company has supported the National Association of Conservation Districts (NACD). CNH Industrial one of the largest donors to the NACD and one of the primary sponsors of their annual meetings. The NACD and CNH Industrial's partnership ensures education and activities focus on the sustainability of agriculture through the stewardship for the land and the protection of its quality soil and water, all needed to secure the resources to feed a growing world population with safe food sources. New Holland Construction and Case Construction covers all products, parts and labor. https://www.nacdnet.org/news-and-events/annual-meeting/2023-annual-meeting-speakers/</p> <p>All CNH Industrial engines comply with U.S. EPA (EPA emission standards part 1039) and Canadian regulations.</p>

45	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	CNH Industrial is proud to partner with Small Business, Veteran Owned, Women or Minority Owned, Native American Owned and other Disadvantaged Business Enterprises. Monroe Tractor 1001 Lehigh Station Road, Henrietta, NY 14667 – WBE Certified noted on website www.monroetractor.com Yukon Equipment in AK is Native Owned. It was established under the Alaska Native Claims Settlement Act of 1971. https://yukoneq.com/about-us/	*
46	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	New Holland Agriculture and Case IH covers all products, parts and labor. This is defined in our Warranty and Limitation of Liability agreements for both brands.	*

Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
47	Do your warranties cover all products, parts, and labor?	All materials and labor are covered as described in the brand's Warranty Statements. Please see Warranty attachment.	*
48	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	The warranty term, time period and usage limits vary by product please see the Warranty Limitations of Liability forms attached for both brands.	*
49	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	No, this proposal does not cover technician travel time or mileage for warranty repairs. The member and the dealer may work out other arrangements outside of this proposal.	*
50	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	No. Authorized CNH Industrial equipment dealers warranty repair centers are available in all geographic regions of the U.S. and Canada. Sourcewell members will work with their local dealer for warranty repairs.	*
51	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	All CNH Industrial branded equipment (New Holland/Case IH) are warrantied by CNH Industrial. Any attachment/accessories not branded CNH Industrial (New Holland/Case IH) will be warrantied according to the original equipment manufacturer according to their policies.	*
52	What are your proposed exchange and return programs and policies?	CNH Industrial's responsibilities include, but are not limited to: <ul style="list-style-type: none"> • Deliver a unit that is free of defects in material and workmanship • Reimbursement costs for repairs that are the result of defects in material and workmanship • Provide warranty payment to dealers per policy in a timely manner • Provide service information to dealers via the Technical Help Desk (THD) and eTIM • Identify product deficiencies and corrective action by Product Improvement Programs • Make determinations of premature wear • Provide operators manuals • Deliver a "work-ready" product, but not application ready (roll-on / roll-off product) <p>If for any reason defects/failures arise, CNH Industrial will take corrective actions under the warranty policy. Returns/Exchanges are not allowed.</p>	*

53	Describe any service contract options or preventative maintenance programs your organization offers for the items included in your proposal.	<p>We offer Purchased Protection Plans (PPP) on specific components provided to the customer.</p> <p>Extended Warranty is an extension of the base warranty coverage on specific components provided to the customer at no additional cost. Each of the above warranties vary in hours/term length by product. Please see attached "warranty" file for a complete list of equipment coverage.</p> <p>Purchased Protection Plan (PPP) is available for purchase through CNH Industrial Capital. PPP provides coverage beyond the manufacturer's base warranty period for new and/or used equipment. The duration and type of PPP warranty will depend on the purchased coverage. If the plan lists a month / year limit and a machine hour limit, the plan expires when the first of those limits is reached. PPP purchased during the manufacturer's base warranty period.</p> <ul style="list-style-type: none"> • PPP period (duration and/or hour limit) includes the manufacturer's base warranty period. • PPP coverage begins upon the expiration of the manufacturer's base warranty period. <p>Case IH provides Max Maintain which is key to maximizing your equipment's performance, lifespan and value. Max Maintain provides the proper combination of maintenance support to provide you the ultimate control and visibility over your equipment's maintenance needs and cost.</p> <ul style="list-style-type: none"> • Lock-in maintenance costs for better budgeting • Maintenance options suited for your exact equipment and operation needs • Proactive maintenance schedules to provide operational uptime. • Maintenance performed by certified Case IH technicians using genuine parts, lubricants, and approved service techniques. <p>See an example of PPP & Max Maintain form in the attachments.</p>
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Table 10: Payment Terms and Financing Options

Line Item	Question	Response *
54	Describe your payment terms and accepted payment methods.	Payment terms are 30 days after receipt of invoice. Payment methods are at dealer's discretion, but most would accept cash, ACH, Check and P-Card.
55	Describe any leasing or financing options available for use by educational or governmental entities.	CNH Industrial Capital America LLC provides financing and leasing solutions to our members. Our members should contact their local CNH brand agricultural dealer to see what options are available.
56	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	CNH Industrial will provide to our dealers and publish on our Dealer Portal a matrix that will explain the contract period, products awarded, and discounts off of list price so they can provide adequate quotes to our members. A copy of the matrix will be uploaded for your reference.
57	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	P-Card acceptance will be at the dealer's discretion.

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *
58	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Each of our products will be discounted off standard list price. Please see the attached customer discount matrix. Freight for Sourcewell members is FOB CNH Industrial North America plant or import distribution point. Total final price will include discount off of list with freight, setup, surcharge and any other additional costs associated with the final sale.
59	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	CNHI will be providing a discount off of list which will range from 18% to 35%.
60	Describe any quantity or volume discounts or rebate programs that you offer.	We do not offer additional discounts, but our local dealers are authorized to provide additional discounts at their discretion.
61	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	The "sourced" products or related services will be priced at "open market". Dealers will provide a quote for these items and at their discretion may provide additional discounts.
62	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Dealers may include the following as additional costs with each transaction: -Set-up/pre-delivery inspection -Surcharges if applicable -additional manuals -freight -training
63	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	CNH Industrial often will subsidizes the FOB to remain competitive in the marketplace. The additional costs could be freight both from manufacturing facilities, distribution points, or transfers from another dealer's inventory.
64	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Alaska, Hawaii and Canada shipping and delivery expenses will be calculated from offshore delivery.
65	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Customers are allowed to pick up the equipment from the manufacturing/distribution points. This would lower the cost of transaction.

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
66	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
67	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.	Our dealers are required to upload documents when they purchase equipment. They will upload the customer's purchase order, dealer's invoice to customer, and authorization letter. Each month Government Sales Manager audits the Sourcewell documents and verifies membership, pricing, discount, etc. Each quarter a report is generated on all Sourcewell sales and sent to the Sourcewell buyer.
68	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Market Share is important to our business. AEM reports are run each month. This report helps us to determine if our government sales are growing. We are also looking at our year over year and quarter-over-quarter results in sales volume dollars. Our goal is to continue growth, increase Sourcewell sales and also show us targeted growth vs that of last year's quarter. The percentage of government sales going into Sourcewell is determined. Our goal is to continue to grow the Sourcewell contract. We also are looking at our year over year and quarter-over-quarter results in sales volume dollars.
69	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	CNH Industrial agrees to continue to pay Sourcewell a 0.75% contract fee. Our contract has continued to grow, which results in profit for all parties involved.

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *
70	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	<p>New Holland Agriculture Equipment: Compact Tractors offers roomy, no-clutter operating platforms and cabs provide a direct and safe path to the seat. Natural placement of controls and pedals. They are perfectly positioned for easy access, comfort and simple operation. Unmatched visibility. New Holland puts visibility first and our distinctive sloped hood gives you an unobstructed view. Clean, fuel-efficient power. New Holland, the Clean Energy Leader, helps reduce your carbon footprint with engines that meet strict Tier 4 Final emissions standards, while providing increased power and fuel efficiency. Simple maintenance. You can check engine oil without raising the hood, but when you want to lift the hood, it opens easily in one piece. No cumbersome panels or grills to deal with and no need to remove the loader, if you have one.</p> <p>WORKMASTER™ compact tractors feature the same sturdy buckle-up driveline design found on New Holland agricultural tractors. The powerful, fuel-efficient 3-cylinder diesel engine helps you tackle your toughest tasks. EASY ON AND OFF. The roomy operating platform gives you an open path to the seat, which is padded for maximum comfort. The clutter-free design allows for a clear, unobstructed view. VERSATILE TRANSMISSION Choose between a 12 x 12 synchronized shuttle or a hydrostatic transmission for your WORKMASTER compact tractor.</p> <p>PowerStar™ models pack power to effortlessly tackle your jobs. Along with efficient engines and a 12x12 transmission with a power shuttle, you'll choose between a 2WD or 4WD front axle and an ergonomic cab or ROPS platform. Common rail fuel injection enhances combustion and reduces fuel consumption. These engines also provide more power, torque, and efficiency compared to previous Tier 4A engines and come with an industry-leading 600-hour service interval for less downtime. All models feature a 4-cylinder Tier 4B FPT engine. Unlike some competitors, no diesel particulate filter (DPF) is used, and no regeneration is required.</p> <p>T4V Vineyard tractors are now available with Level 4 protection from dust, aerosols and vapors. With a width as narrow as 43.1 inches (depending on tire size), the T4V tractor fits in the tightest rows. You get clean power from engines that are Tier 4A emissions-certified and range from 65 to 93 PTO horsepower. New Holland is the world's leading supplier of narrow tractors, so you know you are getting the advantages of the very best.</p>

T4F Fruit tractors are now available with Level 4 protection from dust, aerosols and vapors. The T4F Series continues the legacy of being the most stable, narrow platform for tough applications. Powerful, 207-cubic-inch, four-cylinder engines are Tier 4A emissions compliant to reduce emissions.

T3F Fruit compact specialty tractors pack 40 to 60 PTO horsepower in a heavy-duty, 5,000-pound design without sacrificing maneuverability or agility. With a narrow frame and a low, overall height of only 54 inches to the top of the steering wheel, T3F tractors navigate easily in between precious crops as well as under low branches and overhangs. T3F tractors are ideal for powering rotary cutters and small sprayers in large operations. They are also a prime choice for small orchards, hop yards, vineyards, nut groves, blueberry farms, poultry houses and any operation where you need a compact utility tractor.

TK4 track crawler machines can easily work with even bigger and heavier front implements thanks to the heavier, stronger front axle casting that permits the application of up to 1,100 lbs (500kg) of front ballast (TK4.100M only). With four models from 65 to 86 PTO horsepower – two Specialty ROPS models and two Open Field machines with ROPS or heated and air-conditioned cab. Built for stability and traction, the all-terrain TK4 tractors are perfectly designed to climb the hills and mountains of fruit orchards, vineyards and nut groves.

T5s with a Dynamic Command or Auto Command transmission benefit from the spacious Horizon™ cab and high-visibility roof panel, while T5s equipped with an Electro Command or Dual Command transmission feature the incredible visibility and comfort of the VisionView™ cab. For open-air comfort, a flat-deck ROPS platform is available with the Dual Command transmission. Ranging from 73 to 110 PTO horsepower, the T5 Series is equipped for numerous roles in your operation. Three frame sizes and four transmission options partner with industry-leading ergonomics and efficient emissions solutions for unmatched versatility. Choose from the 24x24 Dual Command™ Hi-Lo transmission, the 16x16 Electro Command™ semi-powershift transmission, the 24x24 Dynamic Command™ 8-step semi-powershift, or the Auto Command™ CVT. Durable, fuel-efficient 4-cylinder engines help reduce your fuel bills and reduce emissions using the latest emission technology from FPT Industrial.

TS6 Series II tractors are affordable, big on power and efficiency, loaded with comfort. Tier 4B engines provide more horsepower and torque than previous models while reducing emissions and fuel use. Both the VisionView™ cab and open, flat-deck platform give you plenty of room and operating ease.

The T6 Series offers five models ranging from 95 to 126 PTO horsepower are ready to boost your productivity in a wide array of applications including loader work, haymaking, row cropping, and roadside mowing. ECOBlue™ Hi-eSCR 2 engine technology provides Stage V emissions compliance and greater fluid efficiency for 25% longer service intervals. Tractor offers 2WD or FWD front axle, and three efficient transmission choices.

T7 models range from 150 to 300 engine horsepower, and all boast New Holland's cutting-edge and award-winning ECOBlue™ Hi-eSCR 2 engine technology that optimizes torque, power and efficiency. Innovative New Holland technology options such as IntelliSteer™ auto guidance, MyPLM™ Connect and IntelliCruise™ tractor/baler automation help maximize your profits. Best-in-class lighting packages, upgraded seat options, Comfort Ride™ cab suspension and innovative easy-to-use controls improve operator comfort and productivity. The T7 Series line-up provides a choice of engine power, hydraulic options and transmission choices for every application.

GENESIS® T8 Series with PLM Intelligence™ has five models from 250 to 396 rated horsepower with an enormous 40% torque rise plus up to an additional 71 boosted horsepower from the Engine Power Management system, all combined with a 600 hour service interval to keep your operating running and profitable. The new IntelliView™ 12 display and Sidewinder™ Ultra armrest is second to none! We built your control package around the revolutionary idea that customer adjustments should come standard to increase your operator efficiency. Reduce downtime and keep operators in the field with added connectivity and support features. With remote viewing capabilities, you can access the in-cab IntelliView™ 12 display to help identify problems and gain deeper insight.

T9 models range from 425 to 682 max hp, with traditional Ultra Command™ full powershift transmission or the Auto Command™ CVT, in wheeled models or SmartTrax™ designs. The IntelliView™ 12 display and Sidewinder™ Ultra armrest is second to none! We built your control package around the revolutionary idea that customer adjustments should come standard to increase your operator efficiency. Redesigned cab and controls, including the most functional and customizable armrest

and display. Reduce downtime and keep operators in the field with added connectivity and support features. With remote viewing capabilities, you can access the in-cab IntelliView™ 12 display to help identify problems and gain deeper insight.

TH Series Telehandlers Lift heavy loads with a TH7.42 PLUS or ELITE or stack bales to the rafters with the long reach of a TH9.35 PLUS. Turn tight with four-wheel steer mode or utilize front-wheel and crab steer modes for additional flexibility. The 360° Vision Cab offers easy entry and exit, superior comfort and visibility, and convenient controls. The boom and frame are more robust and durable thanks to state-of-the-art manufacturing techniques and thick steel components.

Deluxe Compact Loaders have the curved -boom design lines up with the sleek hood of the Boomer tractor to give you a clear view for a safe operation. The mid-mount design makes hookup easy and allows for complete turning regardless of tire size. The New Holland loader provides greater rollback so that the bucket fills more completely, and a greater dump angle ensures clean dumping.

The LA Series curved boom, low cross tube and chamfered loader arm provide you with clear sightlines to operate in close quarters. Increased bucket crowd angles at lower operational heights means less spilling and you can fit more material in the bucket. High-capacity hydraulic components, wide loader beam construction, state-of-the-art welding and cast, and forged components provide superior strength and durability. New Holland's Soft Ride system provides an uncompromisingly smooth ride, responding quickly to bumps in the road, field or job site.

New Holland attachments such as backhoes, snowblowers, blades, finish mowers, landscape rakes just to name a few are the perfect way to increase the productivity of your New Holland tractor.

New Holland offers a full line of Conventional and Commercial Hay products from SP Windrowers, balers, mowers, spreaders, Forage Harvesters, and everything in between. Our complete line of haytools offers what you need for high quality hay.

New Holland offers the record-breaking capacity and quality of these combines and headers with complete package in grain harvesting.

New Holland's accuracy matters when planting, and our line of tillage and seeding equipment achieves this goal with higher efficiency.

With high crop clearance and a front boom, these sprayers have reduced drift and unmatched visibility.

New Holland is also providing our Agriculture Construction equipment for our Agriculture dealers to sell to their members. The units available on this contract will be the Skid Steer Loader and Compact Track Loader.

Case IH Equipment

Compact Tractors

Case IH Farmall compact A series tractors are rugged, reliable machines ready to tackle tough chores. With many standard features and numerous available options, these tractors are easy to operate, allowing you to complete those everyday chores without hassle.

Case IH Farmall compact C deluxe series tractors are popular because of their size, maneuverability and physical capabilities. From moving mulch with a loader to blowing snow or digging with a backhoe, they are built tough and with plenty of power to get the job done.

Small Utility

Farmall Small Utility A Series

Delivering value to your operation, Farmall® small utility A series tractors come with the standard features you expect—from durable, efficient engines and transmissions to a comfortable operator's area. Reliable and efficient, Farmall small utility A series tractors come in a wide range of models and configurations to tackle any task on small farms, large rural properties, livestock operations, and commercial or municipal work.

Farmall Small Utility C Series

Advanced features and functionality make Case IH Farmall® small utility C series tractors the ideal option when you need a versatile tractor that's at home in the hayfield as in the cattle pen. These tractors are hard-working, heavy-duty, deluxe tractors with flexible options to handle any application. These deluxe utility tractors feature full power, full comfort and full features and are ideal for demanding livestock

duties, larger hay operations and heavy loader work.

Medium Utility

Farmall Medium Utility A Series

Delivering value to your operation with the standard equipment you need to get the job done, Farmall® medium utility A series tractors are durable, feature-loaded and economical. Featuring more horsepower, Farmall® medium utility A series tractors accomplish the most demanding tasks on any operation. Greater durability, more features and ultra-comfortable cab options make these models a perfect fit for livestock operations, mixed farms and specialty operations like poultry farms, orchards and vineyards.

Farmall Medium Utility C Series

Hard-working and heavy-duty, Farmall® medium utility C series tractors are available with options to handle any application. These deluxe utility tractors feature full power, full comfort, full features, and a variety of options. They are ideal for demanding livestock duties, larger hay operations and heavy loader work.

Farmall Medium Utility U Series

Farmall medium utility U tractors offer the ultimate Farmall experience. These heavy-duty, premium utility tractors with high-capacity hydraulics are ideal for the most demanding chores – whether you're on the ranch, running a mixed grain operation, or even a municipality. Versatility, comfort, and superior visibility makes the Farmall medium utility U the ultimate multi-tasker

Large Utility

Farmall Large Utility 100A Family

Case IH Farmall 100A series tractors are tough, reliable, remarkably versatile and an excellent value. With four models available in cab or non-cab versions and two-wheel drive or optional mechanical front-wheel drive configurations, you're sure to find one that's right for your operation and budget.

Specialty

The Farmall® N series tractors are designed for vineyards, orchards or any application where space is at a premium. Case IH Farmall N series tractors offer versatility and ease-of-use without sacrificing operator comfort.

The Farmall® V tractors are specialty tractors designed to fit perfectly between vineyard rows and have a low center of gravity for steep inclines. With a 3.4 L turbocharged and aftercooled engine, Farmall V series tractors have a minimum width of 42.5- 49 inches (depending on tire size) and a minimum ground clearance of 11.2 inches to maneuver through tight rows. Cab isolation mounting makes for a smooth, comfortable ride. Available with a convenient 16 x 16 power or mechanical shuttle transmission.

Vestrum Family

Case IH Vestrum series tractors provide maneuverability and premium cab comfort in a compact design with more than 100 engine horsepower to accomplish a wide variety of tasks. A 4-cylinder engine delivers more low-speed torque and better engine responsiveness.

Maxxum Family

Case IH Maxxum® series tractors combine efficient power with operator convenience. Maxxum® series tractors deliver the versatility and productivity you demand — from fieldwork to loader work. Powered by FPT engines, these multipurpose workhorse tractors deliver increased productivity, performance and fuel efficiency to keep your operation running smoothly.

Puma Family

Case IH Puma® series tractors are equipped with more power, stability and features to handle a variety of tasks on livestock, dairy and mixed-crop operations. An efficient, multipurpose tractor with the size and power ready to handle a variety of tasks on any operation. When you don't want to compromise power for flexibility, choose Puma.

AFS Connect Puma Family

Known for their combination of power, performance and prestige, the AFS Connect™ Puma® is a hyper-efficient midsized tractor designed to optimize livestock and row crop operations. Puma® series tractors are known for their performance on the road and in the field. Now, with a lineup of all-new models equipped with integrated AFS Connect technology, operators will be able to handle in-field challenges with even greater connectivity and ease. AFS Connect Puma series tractors come with comfort and performance enhancements to create an entirely new high-tech experience for growers who need ultimate flexibility. Best of all, these updates come without sacrificing the tried-and-true power and efficiency

that make a Puma, a Puma.

Optum Family

Case IH Optum® series tractors deliver the horsepower needed for tillage, haulage and the heaviest mounted implements, with enhanced cab features for a more comfortable operator experience. Optum® series tractors meet your needs for power, comfort, hydraulic capacity and weight. With this flexibility, Optum tractors deliver on everything from haulage and roading applications to tillage, planting and seeding, and hay and forage operations. Integrated AFS Connect technology maximizes your productivity.

Magnum Family

The Magnum series tractor integrates the technology you demand into one easy-to-use package. Starting with the new AFS Vision Pro operating system, configure precision farming functionality, tractor systems and connectivity with integrated solutions. This comes without sacrificing the power, efficiency and productivity for which Magnum tractors are known. Fully-integrated AFS Connectivity coupled with the rugged power and productivity of the Magnum series tractors takes your operations to the next level of efficiency. All Magnum™ tractors come with an AFS Connect technology subscription.

Steiger Family

Agriculture delivers new challenges and opportunities every day. You need a tough, reliable machine that sets the standard for high-horsepower tractors. For nearly 70 years, Steiger series tractors have helped producers like you get more from the job in demanding conditions. With more power, efficiency and comfort than the competition, plus the power of AFS Connect, find new ways to maximize your yield potential and return on investment, while minimizing your fuel consumption, work hours and stress. The most powerful 4WD tractor in the industry — with record-setting fuel efficiency, best-in-class comfort, and the ability to remotely manage your farm, fleet and field information with AFS Connect™. All new Steiger® tractors come with an AFS Connect technology subscription.

Tractor Implements

Case IH provides the tractor implements you need for all your mowing, landscaping, tillage, cleanup or snow removal tasks.

L Series Loaders

Get more work done with premium loaders. Available for the Farmall® Medium Utility C, Farmall® Large Utility 100A, Vestrum®, Maxxum®, Puma® and Magnum™ series tractors, these loaders are perfectly matched to your tractor.

Axial-Flow Combines

Axial-Flow 250 Series Combines

For over four decades, the Axial-Flow 250 series combine set the standard for high-capacity and highly efficient harvesting. Designed to optimize grain quality and grain savings, the 250 series combines with optional AFS Harvest Command™ automation simplifies harvesting by sensing and optimizing machine settings — regardless of operator skill level.

AFS Harvest Command automation is officially supported for the following crop types: corn, soybeans, canola, barley, wheat and rice.

With 2-speed electric shift ground drive transmission, adjustable rotor cage vanes, improved feeder house design and standard AFS Harvest Command™ combine automation system, Axial-Flow® 250 series combines are engineered for a high-efficiency harvest. All new Model Year 250 Series Axial-Flow combines will receive 5 years of AFS Connect™ technology subscription.

Axial-Flow 150 Series Combines

Perfect for owner operators and fleet operations, the 150 series Axial-Flow® combines deliver maximum peace of mind through a simple-to-operate, efficient and reliable design featuring a belt-driven rotor. With proven Tier 4 B/Final emissions-certified 6.7 L to 8.7 L engines, up to 375 engine horsepower at 2100 engine RPMs and up to 300-bu. capacity, they give you the same superior grain quality, grain savings and value as the larger 250 series. Enhanced Case IH Axial-Flow® 150 series combines increase productivity, featuring the legendary single rotor technology, combined with the Cross-Flow™ cleaning system and increased grain handling capacity to help you put more high-quality grain in the tank.

Tillage

Case IH Speed-Tiller 465/475 with working widths from 5'9" – 41' are high-speed tillage tools that dig like a disk and finish like a finisher — maximizing the agronomic quality of the seedbed from surface to floor, fall or spring. Featuring indexed, independently mounted blades, these high-speed disks are available in either rigid mounted or trailing configurations to meet the unique demands of each operation.

True-Tandem Disk Harrows with working widths from 22' 0" - 46' 7": Tough field conditions call for tough tillage tools. Case IH True-Tandem disk harrows lead the industry in ruggedness and reliability so you can manage heavy crop residue with ease.

The Case IH Family of Disk Rippers are engineered to provide the perfect seedbed for your operation. Our disk rippers optimize residue management, soil tilth and seedbed conditioning. Take your operation one step further with AFS Soil Command™. Tackle your primary tillage needs with a Case IH Ecolo-Tiger 875 disk ripper — built for durability in tough conditions and flexibility to match your needs.

The Case IH vertical tillage lineup is built on proven Agronomic Design™ principles with industry-exclusive blades. The True-Tandem 335VT and 335 Barracuda vertical tillage tools cover more ground in less time, so your fields are ready to go when your planting window approaches. Ideal for mixed farms and small- to mid-sized grain operations, the VT-Flex™ 435 vertical tillage tool offers simple variable gang angle adjustments — from effectively sizing residue and preserving soils to mixing the most stubborn crop residue.

Case IH field cultivators are designed from the ground up to create a high-efficiency seedbed. The Tiger-Mate® 255 offers the durability and Agronomic Design™ features needed for more efficient planting and maximum yield, while the Vibra-Tine™ 265 S-tine field cultivator takes on tough high-clay and timber soils in one spring pass. The Tiger-Mate 255 technology is designed to maximize yield potential in one spring pass. field cultivator creates a high-efficiency seedbed for the most accurate seed placement. From crop residue management to soil tilth to seedbed conditions, we designed this field cultivator with an eye on improving agronomic performance.

For high-clay and timber fields, the Vibra-Tine 265 S-tine field cultivator helps achieve optimal clod-sizing, a smooth field finish and healthier soil. Proven and effective S-tine technology is designed to maximize yield potential in one spring pass.

Patriot 50 Series Sprayer

Exceptional operator environment. Complete vehicle control. Integrated technology. The Patriot® 50 series sprayer makes the most of tight application windows — now with a bold, new look.

Trident Combination Applicator

The most productive high-clearance row crop combination applicator on the market, the Trident™ 5550 delivers industry-leading changeover times to help you cover more acres and meet demands across three seasons of use — preplant, postemerge, postharvest.

2000 Series Early Riser Planters

From the rugged row unit to the factory integration of the industry's most accurate planter technologies, the 2000 series planter operates at your speed to ensure faster, more uniform emergence and the best yield possible. This easy maintenance planter allows for a customizable seeding depth and plants with accuracy by combining a rugged row unit and accessible T-handle depth adjustment. With the industry's most accurate technologies, you can achieve high-efficiency planting that adapts to unique field conditions.

Precision Disk Air Drills

Case IH Precision Disk air drills are designed to help you work more efficiently, so you can be more productive — no matter the residue conditions you're dealing with or crops you plant. Precision Disk air drills are a versatile seeding tool to help you seed a broad range of crops more consistently and effectively. Plus, Precision Disk air drills allow you to seed at higher speeds and spend less time on daily maintenance. Whether you're equipped with tow-behind, tow-between or mounted seed tanks, get high-capacity air seeding with consistent seed placement and better seed-to-soil contact with Case IH Precision Disk air drills.

Precision Air™ Air Carts

Get superior air seeding, electric drive metering and individual section control with Case IH Precision Air™ air carts. Tire packages available for ground pressures as low as 14 psi and single-or double-shoot distribution. Make the most of short seeding windows with the Precision Air 5 series air carts. Designed with the flexibility to fit your operation, the full lineup of air carts from Case IH helps increase seeding capacity and reduce costly overlaps. Customizable configurations provide the versatility for a variety of crops and fertilizers, while our exclusive metering and seed delivery systems offer greater efficiency.

Windrowers

Case IH Windrowers get you to the field faster and muscle through the tough spots, without sacrificing harvest quality or operator comfort. Transport speeds up to 30

		<p>mph and cutting speeds up to 20 mph, together with simplified operations and innovations such as Field Cruise and the Triple Windrower Attachment, bring peak efficiency to your operation. The ultimate in performance and operator comfort. With up to 250 HP and the fastest speeds in the industry, WD5 series windrowers handle heavy crops, wet conditions and hillsides with ease.</p> <p>Large Square Balers Higher capacity, greater bale density, and greater efficiency than ever before with steering sensors, lighting packages, heavy-duty pickup reels and additional twine storage. The Case IH LB436 HD large square baler has a patented two-speed gearbox, robust compression system, ISOBUS Class 3 integrated automation and a reliable TwinePro™ knotter system, all made to increase the efficiency of the baler and set standards in bale density and ground speed.</p> <p>Round Balers Whether baling wet silage, dry hay or stalks, new additions to the Case IH round baler family are designed to boost your productivity and efficiency. The new RB6 HD Pro series balers handle higher bale counts with new high-performance features. Built to tackle wet and heavy silage but able to excel in any crop, RB6 HD Professional balers bring superior speed with fewer moving parts, making for lower maintenance and greater productivity. New Standard and Premium models have been added to the lineup with features such as wider pickup widths and a new wrapping system. Taken together, these features and models allow you to create denser, higher-quality hay, leaving you with fewer bales to handle.</p> <p>Disc Mowers Case IH disc mowers handle tough conditions while delivering clean cutting performance, maneuverability, durability, and overall value. The Case IH disc mowers are engineered to perform and provide reliable service on the field day after day. Choose between MD3 heavy-duty models or the economical MDX models. Backed by a three-year warranty, Case IH MD3 disc mowers feature a modular cutterbar, hitch compatibility, easy transport options, and simplified adjustments and maintenance. Case IH MDX disc mowers are simple and economical, designed for years of service.</p> <p>Disc Mower Conditioners Case IH now offers additional sizes of center-pivot DC5 series disc mower conditioners for more performance options in a smaller, convenient package. Combined with DC3 series side pull disc mower conditioners, which provide industry-leading cut and crimp for optimal windrow formation and superior nutrient retention, you'll experience better crop flow and faster dry down while no-tool adjustments and new sizes get you to and from the field faster. Available with the quick-change knife system and three-year cutterbar warranty.</p>
71	<p>If you are providing used equipment, please provide details regarding the proposed program, including sales tracking and reporting procedures.</p>	<p>CNH Industrial will not be offering used equipment. Dealers can sell rental and demo equipment that has not been retailed to any customer and comes with either full warranty or pro-rated warranty depending on the hours on the unit. Member will receive the list discount and demo/lease discount based on the rent for sale program rates less any service or clean up fees dealer would have incurred.</p> <p>Our CNH Industrial dealers can offer the members used equipment but CNH Industrial will not offer a list discount to the members. Dealer may offer a discount at their discretion.</p>
72	<p>Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.</p>	<p>Here is a list of subcategories of solutions but is not limited to these customers:</p> <ul style="list-style-type: none"> Railroads Private Schools Churches Hospitals Non-profit snowmobile clubs agricultural associations Civic and Charitable Organizations Mowing and Snow removal contractors Local Construction contractors (roads, water/sewer pipelines, electric power lines) <p>CNH INDUSTRIAL supports your municipality by optimizing equipment for productivity.</p>

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments
73	Offering including one or more Ag Tractor(s) with a published net PTO horsepower rating of at least 50.	<input checked="" type="radio"/> Yes <input type="radio"/> No	New Holland Tractor line up from the Workmaster 60 and up have the PTO horsepower rating of at least 50 and up. Case IH tractor line-up from the Farmall Utility 60A and larger all have a rating of at least 50 PTO horsepower. *
74	Combines, chaser grain carts, tillage equipment, sprayers, spreaders, planters, seeders, hay balers, rakes, pallet forks, and forage equipment.	<input checked="" type="radio"/> Yes <input type="radio"/> No	CNHI offers all products except for chaser grain carts. *
75	Used equipment, attachments, or accessories, to the extent that the offering of used equipment, attachments, accessories, is ancillary or complementary to an offering of new, current model equipment and products.	<input type="radio"/> Yes <input checked="" type="radio"/> No	CNHI dealers can sell used equipment to the members but CNHI will not offer a discount to the customer. The equipment will be similar to the offering. CNHI will sell rental and demo equipment that has not been retailed to a customer. *
76	Related technology, to the extent that the offering of technology solutions is ancillary or complementary to an offering of Ag Tractor(s).	<input checked="" type="radio"/> Yes <input type="radio"/> No	CNHI offers integrated technology that supports the customer's needs. *

Table 15: Exceptions to Terms, Conditions, or Specifications Form

Line Item 77. NOTICE: To identify any exception, or to request any modification, to Sourcewell standard Contract terms, conditions, or specifications, a Proposer must submit the proposed exception(s) or requested modification(s) via redline in the Contract Template provided in the "Bid Documents" section. Proposer must upload the redline in the "Requested Exceptions" upload field. All exceptions and/or proposed modifications are subject to review and approval by Sourcewell and will not automatically be included in the Contract.

Do you have exceptions or modifications to propose?	Acknowledgement *
	<input type="radio"/> Yes <input checked="" type="radio"/> No

Documents

Ensure your submission document(s) conforms to the following:

- Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
- Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
- Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
- If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- [Pricing](#) - NH & CIH price books.zip - Monday August 28, 2023 13:10:31
- [Financial Strength and Stability](#) - Sustainability & Annual Reports.zip - Friday August 25, 2023 08:56:38
- [Marketing Plan/Samples](#) - Marketing strategy.7z - Friday August 25, 2023 12:05:48
- WMBE/MBE/SBE or Related Certificates (optional)
- [Warranty Information](#) - Warranty.zip - Friday August 25, 2023 08:57:43
- [Standard Transaction Document Samples](#) - NH & CIH matrix.zip - Tuesday August 29, 2023 09:36:12
- Requested Exceptions (optional)
- [Upload Additional Document](#) - Maps & Awards.7z - Friday August 25, 2023 12:44:35

Addenda, Terms and Conditions

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
 1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
 2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
 3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Amy Swett, Government Fleet Sales Manager, New Holland North America

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

Yes No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "**I have reviewed this addendum**" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
There have not been any addenda issued for this bid.		

**AMENDMENT #1
TO
CONTRACT # 082923-CNH**

THIS AMENDMENT is effective upon the date of the last signature below and is by and between **Sourcewell** and **CNH Industrial America LLC** (Supplier).

Sourcewell awarded the Supplier a contract to provide Ag Tractors with Related Attachments, Accessories, and Supplies to Sourcewell and its Participating Entities from October 9, 2023, through October 11, 2027 (Contract).

NOW, THEREFORE, the parties wish to amend the Contract as follows:

The Proposal line item 59 under "Table 11: Pricing and Delivery" is deleted in its entirety and replaced with the following response: "CNH Industrial proposed discount off list will range from 16%-35%."

Except as amended above, the Contract remains in full force and effect.

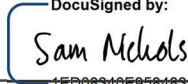
Sourcewell

DocuSigned by:

By: _____
Jeremy Schwartz, Chief Procurement Officer

Date: 7/31/2024 | 9:02 AM CDT

CNH Industrial America LLC

DocuSigned by:

By: _____
Sam Nichols

Title: National Account Manager

Date: 7/31/2024 | 6:52 AM PDT