SUBJECT: PIGGYBACK STATE OF FLORIDA ALTERNATE SOURCE CONTRACT # 55101500-17-1 BOOKS AND NON-PRINT LIBRARY MATERIALS AND RELATED ANCILLARY SERVICES

BID #: PSC-0405-20 **OPEN DATE:**

GENERAL GOVERNMENT AWARDS COMMITTEE

KIND AND BASIS OF CONTRACT: DATE OF AWARD THROUGH MAY 31, 2020 WITH TWO (2) ONE (1) YEAR RENEWAL OPTIONS

AGENCY: LIBRARY

BASIS OF AWARD: PIGGYBACK

NUMBER OF BIDS INVITED: ( ) **NUMBER RECEIVED: ( )** **OTHER: ( )**

SUMMARY OF BIDS AND RECOMMENDED ACTIONS:
Recommend approval to piggyback the State of Florida Alternate Source Contract #55101500-17-1 Books and Non-Print Library Materials and Related Ancillary Services with two (2) contractors: Baker and Taylor LLC and Midwest Tape LLC. Period of service is from date of award through May 31, 2020 with two (2) one (1) year renewal options. Total not to exceed expenditure amount is $825,176.00.

Baker & Taylor LLC - $580,000.00
Midwest Tapes LLC - $245,176.00

Funding Source – PLJX011MBBS-06601 - To be executed by formal contract through the Office of General Counsel

Attachments: Recommendation Memo, Contract and Vendor Letters and Pricing

ANALYST: _____ Annette Burney

RESPECTFULLY SUBMITTED _____ GREGORY PEASE, CHIEF PROCUREMENT DIVISION

CONCURRENCE BY: Tim Rogers, Director, Jacksonville Public Library

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(ALL AWARD ACTIONS SUBJECT TO LAWFULLY APPROPRIATED FUNDS)
ACTION OF GGAC COMMITTEE ON RECOMMENDATIONS ABOVE

MEMBERS APPROVING _____ MEMBERS DISAPPROVING _____ DATE: _____

_____ _____ OTHER: _____

_____ _____

_____ _____

ACTION OF AWARDING AUTHORITY DATE _____

APPROVED _____ DISAPPROVED _____

OTHER _____

SIGNATURE OF AUTHENTICATION _____

JACKSONVILLE PUBLIC LIBRARY Start Here. Go Anywhere.

Memorandum

To: Gregory Pease, Chief of Procurement Division

From: Charlene Adkins, Collection Development Manager Charlene Adkins

Date: January 31, 2020

Re: **Request to Piggyback State of FL Contract 55101500-17-1 – Books and Non-Print Library Materials, and Related Ancillary Services**

PSL-DMF-20

Jacksonville Public Library requests to piggyback the State of Florida contract 55101500-17-1 for Books and Non-Print Library Materials and Ancillary Services for two vendors listed below.

Baker and Taylor, LLC
Midwest Tape LLC

This contract is a State of Florida alternative source contract for the scope of services required by JPL between the State of Florida and each vendor based upon a State of NY contract. The contract was competitively procured by the State of New York as contract award number 22868 with both vendors. The Master Agreement is effective June 1, 2015, and terminates on May 31, 2020 with renewal options available. I spoke with the contract manager for the State of NY and they are currently in the process of completing the renewals for these contracts. The State of Florida contract manager said they would piggyback those renewals once they are available. The terms and conditions, pricing and duration will be the same for the City of Jacksonville as for the State of Florida.

Included is Exhibit A which is a Scope of Goods, Services and Deliverables. Also included are discount/price sheets for categories of library materials and services for each vendor as Exhibit B-1 and B-2.Other included documents are the State of Florida contract for each vendor, an e mail from the contract manager with the Florida Division of State Purchasing stating the contract was competitively procured, signed Certificates of Insurance and a letter from each vendor stating they are willing to meet the Scope of Services, price discounts and costs, and contract duration with the City through a piggyback contract based on the State of Florida contract.

If you have questions or need additional information regarding this request, please contact Charlene Adkins, Collection Development Manager at 255-6027.

Thank you for your consideration.

Leslie-Burney, Annette

From: Adkins, Charlene
Sent: Tuesday, February 04, 2020 11:05 AM
To: Leslie-Burney, Annette
Cc: McNeil, Chuck; Mitchell, Gretchen; Haile, Jill; Adkins, Charlene
Subject: RE: Request to Piggyback State of Florida contract 55101500-17-1 Books and Non-Print Library Materials and Related Ancillary Services for Baker and Taylor and Midwest Tapes

Hi Annette,

Our expenditures and funding accounts for the piggyback contract for each vendor through May 31, 2020 are below.

Midwest Tapes $245,176 from PLJX011MBBS06601.

Baker and Taylor $580,000 from PLJX011MBBS06601.

Thanks.

Charlene Adkins
Collection Development Manager
Support Services Department
Jacksonville Public Library
University Park Branch
3435 University Blvd. N.
Jacksonville, FL 32277
O: 904.255.6027
E: cadkins@coj.net
www.jaxpubliclibrary.org

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From: Leslie-Burney, Annette <ABurney@coj.net>
Sent: Monday, February 3, 2020 5:11 PM
To: Adkins, Charlene <CADKINS@coj.net>
Cc: McNeil, Chuck <CMcNeil@coj.net>; Mitchell, Gretchen <GMITCH@coj.net>; Haile, Jill <JHaile@coj.net>
Subject: RE: Request to Piggyback State of Florida contract 55101500-17-1 Books and Non-Print Library Materials and Related Ancillary Services for Baker and Taylor and Midwest Tapes

Charlene, what is the estimate expenditure for each contractor and the funding account?

Annette L. Burney
Purchasing Analyst
Procurement Division
Finance and Administration Department
214 N. Hogan Street, Suite 800

Leslie-Burney, Annette

From: Miller, Frank <Frank.Miller2@dms.myflorida.com>
Sent: Friday, January 10, 2020 2:45 PM
To: Adkins, Charlene
Cc: Haile, Jill
Subject: RE: State of Florida Library Materials contract "Books and Non-Print Library Materials, and Related Ancillary Services 55101500-17-ACS"

Follow Up Flag: Follow up
Flag Status: Flagged

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Hi Charlene,
All DMS State Purchasing contracts to include State Term Contracts, and Alternate Contract Sources have been competitively procured or meet the requirements per Section 287.00 Florida Statutes.
Best,

Frank Miller | Contract Manager
Division of State Purchasing
850.488.8855
Florida Department of Management Service
We Serve Those Who Serve Florida

How Are We Doing? Click Here to Take the DMS Customer Satisfaction Survey
Links of Interest:

FL DMS State Term Contracts and Agreements Website
FL DMS Contract Quarterly Sales Report Form
State Agency Purchasing Contacts
Vendor Registration and Vendor Lists
Vendor Job Aides
Helpful Links
MFMP Catalogs & eInvoicing
MyFloridaMarketPlace Vendor Page

From: Adkins, Charlene [mailto:CADKINS@coj.net]
Sent: Friday, January 10, 2020 2:36 PM
To: Miller, Frank <Frank.Miller2@dms.myflorida.com>
Cc: Haile, Jill <JHaile@coj.net>
Subject: RE: State of Florida Library Materials contract "Books and Non-Print Library Materials, and Related Ancillary Services 55101500-17-ACS"

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Frank,

I've read over the "How to Use this Contract" document you linked below.

I just want to clarify that since the City of Jacksonville is an eligible user as defined in the Florida Administrative Code, the State does not require we provide any additional information, such as the amount we will spend, or follow any procedure for approval from the State to piggyback the contract?

If that is correct I do want to let you know that we will be requesting to piggyback 55101500-17-ACS through the City of Jacksonville Procurement department.

As part of our Procurement department's requirements to request to piggyback a contract I need a letter from the State saying the contract was competitively procured. Would you be able to send that to me?

Thanks for your help.

Charlene Adkins
Collection Development Manager
Support Services Department
Jacksonville Public Library
University Park Branch
3435 University Blvd. N.
Jacksonville, FL 32277
O: 904.630.1125
E: cadkins@coj.net
www.jaxpubliclibrary.org

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From: Miller, Frank <Frank.Miller2@dms.myflorida.com>
Sent: Thursday, January 9, 2020 1:23 PM
To: Adkins, Charlene <CADKINS@coj.net>
Subject: RE: State of Florida Library Materials contract "Books and Non-Print Library Materials, and Related Ancillary Services 55101500-17-ACS"

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Hi Charlene,

- How long after NY has extended would it take Florida to adopt that extension? Prior to our contracts current end date of 05/31/2020
- And if we wanted to piggyback onto the Florida contract what process would I need to follow for the State to allow us to piggyback? Please see the link below under " How to use this contract"

https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/alternate_contract_source/books_and_non_print_library_materials_and_related_ancillary_services

Regards,

Frank Miller | Contract Manager
Division of State Purchasing
850.488.8855
Florida Department of Management Service
We Serve Those Who Serve Florida

How Are We Doing? Click Here to Take the DMS Customer Satisfaction Survey

Links of Interest:

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FL DMS Contract Quarterly Sales Report Form
State Agency Purchasing Contacts
Vendor Registration and Vendor Lists
Vendor Job Aides
Helpful Links
MFMP Catalogs & eInvoicing
MyFloridaMarketPlace Vendor Page

From: Adkins, Charlene [mailto:CADKINS@coj.net]
Sent: Thursday, January 9, 2020 1:16 PM
To: Miller, Frank <Frank.Miller2@dms.myflorida.com>
Subject: RE: State of Florida Library Materials contract "Books and Non-Print Library Materials, and Related Ancillary Services 55101500-17-ACS"

Hello,

I have been in communication with Shrilata Nath in the NY State Procurement department regarding piggybacking this contract directly with NY State. She mentioned that the State of Florida piggybacks their contract, which I did know, but I have two questions for you based on my conversation with her.

Ms. Rath mentioned that NY is currently in the process to extend their contract and project it will be done in March or April. How long after NY has extended would it take Florida to adopt that extension?

And if we wanted to piggyback onto the Florida contract what process would I need to follow for the State to allow us to piggyback?

Thank you.

Charlene Adkins
Collection Development Manager
Support Services Department
Jacksonville Public Library
University Park Branch
3435 University Blvd. N.
Jacksonville, FL 32277
O: 904.630.1125
E: cadkins@coj.net
www.jaxpubliclibrary.org

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From: Miller, Frank <Frank.Miller2@dms.myflorida.com>
Sent: Thursday, November 21, 2019 10:44 AM
To: Adkins, Charlene <CADKINS@coj.net>
Subject: RE: State of Florida Library Materials contract "Books and Non-Print Library Materials, and Related Ancillary Services 55101500-17-ACS"

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Yes the lead state is new York and I will have our procurement dept. inform me when their decision has been reached.

Frank Miller | Contract Manager
Division of State Purchasing
850.488.8855
Florida Department of Management Service
We Serve Those Who Serve Florida
Complete Our Customer Survey

Links of Interest:

FL DMS State Term Contracts and Agreements Website
FL DMS Contract Quarterly Sales Report Form
State Agency Purchasing Contacts
Vendor Registration and Vendor Lists
Vendor Job Aides
Helpful Links
MFMP Catalogs & eInvoicing
MyFloridaMarketPlace Vendor Page

From: Adkins, Charlene [mailto:CADKINS@coj.net]
Sent: Thursday, November 21, 2019 9:49 AM
To: Miller, Frank <Frank.Miller2@dms.myflorida.com>
Subject: RE: State of Florida Library Materials contract "Books and Non-Print Library Materials, and Related Ancillary Services 55101500-17-ACS"

Thanks.

When will you know if the lead state will elect the option? And the lead state is NY?

Charlene Adkins
Collection Development Manager
Support Services Department
Jacksonville Public Library
University Park Branch
3435 University Blvd. N.
Jacksonville, FL 32277
O: 904.630.1125
E: cadkins@coj.net
www.jaxpubliclibrary.org

Please note that under Florida's very broad public records law, email communications to and from city officials are subject to public disclosure.

From: Miller, Frank <Frank.Miller2@dms.myflorida.com>
Sent: Thursday, November 21, 2019 7:25 AM
To: Adkins, Charlene <CADKINS@coj.net>
Subject: RE: State of Florida Library Materials contract "Books and Non-Print Library Materials, and Related Ancillary Services 55101500-17-ACS"

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Morning Charlene,
We plan on renewing as long as the lead state elects the same option.
Regards,

Frank Miller | Contract Manager
Division of State Purchasing
850.488.8855
Florida Department of Management Service
We Serve Those Who Serve Florida
Complete Our Customer Survey

Links of Interest:

FL DMS State Term Contracts and Agreements Website	Vendor Job Aides
FL DMS Contract Quarterly Sales Report Form	Helpful Links
State Agency Purchasing Contacts	MFMP Catalogs & eInvoicing
Vendor Registration and Vendor Lists	MyFloridaMarketPlace Vendor Page

From: Adkins, Charlene [mailto:CADKINS@coj.net]
Sent: Wednesday, November 20, 2019 4:55 PM
To: Miller, Frank <Frank.Miller2@dms.myflorida.com>
Subject: State of Florida Library Materials contract "Books and Non-Print Library Materials, and Related Ancillary Services 55101500-17-ACS"

Hi Mr. Miller,

The Jacksonville Public Library/City of Jacksonville may be interested in piggybacking the State of Florida Library Materials contract. I noticed that it expires on May 31, 2020 and wondered if the state would be issuing a new contract for library materials anytime in the near future?

Thank you.

Charlene Adkins
Collection Development Manager
Support Services Department
Jacksonville Public Library
University Park Branch

3435 University Blvd. N.
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O: 904.630.1125
E: cadkins@coj.net
www.jaxpubliclibrary.org

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Exhibit A

DESCRIPTION OF SERVICES AND DELIVERABLES

4.0 Purpose

a) The purpose of this Request for Proposal (RFP) is to solicit proposals from commercially and technically qualified and experienced Vendors for a contract to furnish, on an as needed basis, library books, audiovisual materials and digital materials in a variety of formats, including hardcover books, trade paperbacks, mass-market paperbacks, library editions, CDs, DVD's, spoken word audio CDs, digital e books, e audio, e music and e video. The Vendor may be responsible for the acquisition, original cataloging, copy cataloging, item linking (online linking of item-level, copy specific information to appropriate bibliographic records), processing and delivery of the materials.

b) The vendor must be able to provide a broad spectrum of library material in quantities to meet the needs of a large public library system. This request for proposal does not restrict or limit library acquisition of library materials in other formats, titles, publishers, or groups of publishers, in any way. The Jacksonville Public Library (JPL) is soliciting proposals from applicants so that the proposals can be evaluated to ensure that the vendors selected will meet the needs of the JPL. Vendors may respond to the RFP in total or to specific areas (i.e., print materials only, CDs/DVDs only, e materials, etc.).

c) The JPL recognizes that some vendors may specialize in one format or type of material and the library will consider partial proposals. Vendor responses for each format or type of material will be evaluated separately. This may result in contracts with multiple Vendors. When appropriate, a vendor may submit multiple alternatives with associated costs that reflect different solution strategies. This three (3) year agreement commences at the start of the contract. Renewal options will be exercised at the sole discretion of the City based on bidder performance, their ability to meet contract obligations (specifications) and the availability of funds.

d) The JPL is comprised of a Main Library and 20 branch libraries of three sizes ranging from large regional branches to medium size community branches to small neighborhood branches. The University Park library building is a multi-use building where the Support Service Department of the library is located. The library is a department of the City of Jacksonville but is governed by a Library Board.

e) The JPL's holdings number over 961,479 titles and just over 2,000,000 physical items. Approximately 827,563 borrowers are currently registered. Annual circulation was more than 4,700,000 items in fiscal year 2018.

f) The materials budget for JPL during fiscal year 2018 (ending September 30, 2018) was $4.3 million. Of that, *approximately* $2,200,000 was spent on print adult, children's, teen and standing orders materials, $255,000 on DVD's, $25,000 on music CD's, $180,000 on books on CD's and $1,100,000 on popular digital format books, audio, music and video. The materials budget for fiscal year 2019 is also $4.3 million.

g) Vendors must fully respond to the requested specifications in all sections. If a vendor is responding for specific materials only (print materials only, CDs/DVDs only, digital materials only) full responses in all sections applicable to material type responding about is the minimum requirement.

h) Vendors must demonstrate the ability, experience, organization, technical qualifications, stock, facilities and standard services common to the wholesale library materials trade that would allow the vendor to supply at least two hundred thousand dollars of library materials on a yearly basis. If a vendor is responding to a specific material, please state the amount in dollars that could be supplied yearly.

i) The JPL uses the Sirsi Dynix Symphony Integrated Library System version 3.5.2.1 for acquisitions, cataloging, circulation and our online public access catalog is Enterprise version 5.0.0.4. Vendors must be capable of interfacing with our integrated library system.

4.1 **Order formats.**

Vendor must be able to accept orders transmitted in the following formats:

1) Electronic ordering via vendor's proprietary system with 9XX information that can be used to create an order record in Sirsi Workflows.

2) Electronic Data Interchange (EDI) via Sirsi Workflows.

3) Accept orders by phone.

4) Accept orders by e mail.

5) Accept printed purchase orders.

6) Accept orders online.

4.2 **Collection Development & Selection Services.**

a) Vendor shall provide a web-based online bibliographic database that interfaces effectively with the JPL's Sirsi Workflows integrated library system to facilitate the creation of ordered lists. No cost access to Vendor's database is highly desirable. **If there is a cost for the vendor's database please provide the cost. Vendors are asked to provide trial access to their database to assist in the evaluation of RFP responses.**

b) Vendor's proprietary database shall be able to perform the following functions:

1) Ability to search the system by ISBN, title, author, subject, series, UPC, keyword on major fields, publisher, and Dewey Decimal classification system to Dewey one's (e.g. 640, 641, 642…).

2) Ability to search on a combination of fields.

3) Ability to limit search by grade level, language, publication date, binding, material type, e content platform, stock status and initial print run.

4) Ability to search by review source and its publication date desired, especially for Library Journal, Booklist, Kirkus Reviews, School Library Journal, Publisher's Weekly, Audiofile and New York Times Book Review.

5) Ability to sort retrieved records by publication date, author, title, Dewey Classification System and series title. Sorting by local note field is highly desirable.

6) Ability to accurately show the Vendor's current real-time inventory of items in the bibliographic database including items in stock and items on order.

7) Ability to mark items retrieved and add or delete these items to a shopping cart–like list.

8) Ability for multiple users to have access to a list and for the JPL to control user's access to lists for both viewing and editing purposes.

9) Ability to know during a search if an item is already on another library order list. Duplicate checking by title as well as ISBN is required.

10) Ability to download the bibliographic records in MARC format to the Sirsi Workflows system.

11) Ability to download the bibliographic records in comma de-limited format to Microsoft Excel and Microsoft Access.

12) Availability of at least two (2) note fields with a minimum of 250 characters for each item note field that can be downloaded as part of the order list.

13) Ability to automatically generate a report of expenditures from a single list by fund and location.

14) Ability to link from a title to records for all other formats of the same title listed in Vendor's database. Formats shall include but not be limited to large print, audio book, eBook and DVD.

15) Ability to add orders to an item using a template with multiple locations and funds. As an example—an order of 30 copies of a title that will be distributed to multiple locations and using multiple funding sources.

16) Ability for the JPL to set up grid templates for ordering.

17) Ability to set exact library discounts and value added service costs for material types in order to reflect accurate cost of each item.

18) Ability to globally add or change funds, locations, quantities, and local notes for all items in a list is highly desirable.

19) Access to pre-built specialty lists. For example: lists organized by material type, bestseller status, subject matter, specific international languages, pre-publication lists of upcoming popular releases.

20) Availability of customizable standing order plans for DVD and spoken audio that the JPL can receive monthly and edit to our specifications prior to ordering.

21) Ability to offer a street release date program for DVDs is required.

22) Availability of a subscription collection management database capable of providing the ability to perform collection analysis and collection maintenance reporting. **If vendor requires a platform agreement, please include it.**

4.3 **Fill Rate.**

The JPL is aware that there are some factors beyond a vendor's control such as shipping delays and insufficient print runs. Given that the majority of the orders under this contract will be for easily obtainable material, vendor must be able to:

1) Meet fill rate for each year of the contract which must meet or exceed ninety percent (90%) for all items ordered.

2) Provide fully cataloged and processed priority, rush orders sent within 5 working days of receipt of books from the publisher to the vendor.

3) Ship from stock 85% of orders for available new titles within 20 days from the receipt of the order, including cataloging and processing time, if the Library chooses to have these services provided.

4) Send 80% of all items back ordered and available from the publisher, cataloged and processed (if specified), within 120 days of receipt of order.

5) **Vendor shall explain how they will meet the above criteria.**

4.4 **Inventory.**

For each format bid on, the vendor shall demonstrate the ability to provide a broad comprehensive spectrum of library materials in quantities to meet the needs of a large metropolitan public library system.

1) JPL collects materials in hardback and paperback; juvenile, teen and adult nonfiction in all Dewey subject ranges; adult, teen and juvenile fiction; adult and juvenile reference materials; mass market paperbacks, print and audiovisual international language materials; graphic novels juvenile picture, easy reader and board books. The JPL purchases new releases as well as back-list titles and purchases limited research and technical materials. Non-print purchasing includes materials such as DVDs, spoken word CDs, music CDs, e books, e audio, and e video. Orders for quantities from one to over two hundred volumes per title may be placed by JPL. **Provide evidence of breadth and quantity of all formats of titles routinely held in inventory:**

   a. State areas of materials that are supplied by vendor.
   b. State areas of materials that are not supplied by vendor.
   c. State the quantity of vendor's inventory.
   d. State vendor's number of service centers or warehouses and their locations.
   e. State the number of new titles added annually.
   f. Provide list of publishers stocked.
   g. Provide a list of International languages supplied.

2) Vendor shall have the ability to provide bestselling and high demand materials by street release date. This is important for DVDs and bestselling print authors in particular.

3) Vendor shall provide JPL with e materials that would be portable from their content platform to another vendor's content platform in the event that JPL would decide to move to another e material vendor for e content JPL purchases.

4) Vendor shall provide documentation on e-materials access including ADA compatibility, circulation model specifications (loan limits, user limits, circulation transactions, security access, and reports available) and catalog integration. **If vendor requires a platform agreement, please include it.**

4.5 <u>**Cataloging.**</u>

Vendor shall be able to provide cataloging and linking services based upon the specifications outlined in the following sections.

1) Vendor shall demonstrate the ability to provide original and copy cataloging in accordance with JPL's Cataloging Policy Manual 2017 (Exhibit A). The JPL is seeking vendors with the ability to provide OCLC records and catalog print books and AV materials. For e materials the JPL seeks a vendor who can provide OCLC records and catalog e materials should JPL request those services. The JPL requires the vendor provide only OCLC catalog records modified in accordance with the library's cataloging policy. Original cataloging will be done as OCLC-defined full-level MARC records. Less than full level records (minimal, core and level 3) will not be acceptable. **The vendor shall explain how they will meet these criteria and provide the MARC record and fully processed item of each of the following based on JPL's policies. For print material: adult fiction title, adult biography title, and juvenile reader title. For non-print material: non-fiction spoken word, feature film DVD, multi disc (3 or more discs) DVD, non-fiction DVD, and popular music compact disc. The vendor will also provide a MARC record for an e book.**

2) The vendor shall be able to provide MARC catalog records with appended 949 holding records that can be loaded, indexed and retrieved by the Sirsi Workflows integrated library system. Each vendor-supplied order record and its corresponding fully cataloged MARC record must contain matching OCLC numbers in the 001 MARC field. The vendor shall notify the library when the OCLC number in the 001 field of the order record differs from the fully cataloged MARC record.

3) Vendor shall have successfully produced bibliographic records with appended 949 holdings that could be successfully exported and loaded into a Sirsi Workflows bibliographic database in order to be considered for selection. **Vendor shall supply a list of library customers for whom the vendor has successfully created bibliographic records containing 949 holdings tags that have been loaded in Sirsi Workflows.**

4) Vendor shall ensure that the OCLC database is updated to reflect JPL holdings of titles cataloged by the vendor.

5) **Vendor shall state the per unit processing and cataloging charges for e materials, print and AV shelf ready materials.**

6) MARC catalog records provided by the vendor shall fall into two categories:

   a. **Added copy records--**
   Vendor must be able to view the JPL's existing bibliographic database via an active Z39.50 interface accessed through VPN. Vendor searches the JPL's database and determines, according to the requirements in the Cataloging

Policy Manual, that the item in hand exactly matches an existing record in the JPL database. The vendor must supply a bibliographic record containing the matching 001 field, with new holdings record(s) appended in 949 tag(s). Call numbers must match existing library holdings. If more than one call number is on the record, the vendor is to email the JPL contact to confirm the preferred call number prior to completing the order. Vendor shall supply added copy records in a separate file.

b. **New catalog records**
The vendor must provide new catalog records through the editing of existing records in the OCLC Bibliographic Database.

New catalog records must conform to RDA (most current edition and revision) with Library of Congress Policy Statements (LCPS) applied, USMARC standards and OCLC Bibliographic Formats & Standards. Records shall also reflect any formally adopted changes to these standards throughout the life of a resulting contract. All serial records shall conform to CONSER standards.

All name, series and subject headings shall reflect the latest authoritative version appearing in the online Library of Congress name and subject authority files.

Call numbers shall be assigned using the appropriate 09X MARC field, according to library policy. The current edition of the Dewey Decimal Classification Scheme shall be used (for JPL this is currently the 23rd ed.) and any subsequent published updates, except as modified by JPL practice, provided in JPL's Cataloging Policy Manual 2017.

New catalog records shall conform fully to the library's requirements for cataloging in JPL Cataloging Policy Manual 2017.

8) Changing cataloging practices within the JPL may result in changes to cataloging requirements as outlined in the library's Cataloging Policy Manual. These changes will be incorporated into procedures by the mutual consent of the JPL and the vendor, which consent may not be unreasonably withheld, and shall be fully implemented by the vendor, within 30 days of written notification of change from the JPL.

9) Bibliographic records shall be transmitted to the JPL via FTP.

FTP transmittal of records must arrive at the Library at least 48 hours before receipt by the Library of the items. Each FTP transmittal shall provide all bibliographic and holdings creation fields for a complete order shipment so that items are not received for which there are no records, and records are not received for which there are no corresponding items.

At the time of each FTP transmittal, the vendor shall produce an e-mail report to designated JPL staff, indicating the following:

a) Date and time of the transmission.

b) Location to which the files were transmitted (complete file path).

c) The number of bibliographic records and holdings records, included in the shipment.

d) Attached file which lists the title, ISBN (or other specified standard number), and OCLC number of the bibliographic record for all items included in the shipment as well as the 001 number on the order record, if it differs from the OCLC number on the cataloged record and a checkmark when the order record lacks an 001 number. JPL determines the format and currently requires an Excel spreadsheet.

Records that fail to be transmitted to the library must be corrected and retransmitted within 24 hours of the notification from the JPL that an error occurred.

10) Vendor's Cataloging Staff:

The preparation of cataloging and holdings records shall be managed by a vendor's staff member with an ALA accredited Masters of Library Science degree and significant professional cataloging experience. **Vendor shall provide a brief resume for the cataloging manager, as part of the vendor's bid response.**

The vendor shall indicate the number of staff members that will routinely prepare cataloging and holdings records for JPL and shall indicate the educational level (high school, B.S./B.A., M.L.S/M.A.) and years of cataloging experience for each staff member.

4.6 **Processing.**

1) Vendor shall be able to provide library specific processing on all purchased materials and formats as outlined in the JPL Processing Procedures 2018 revised.

2) Please refer to Exhibit B JPL Processing Procedures 2018 revised for details of processing for specific formats.

3) JPL will provide barcodes, genre labels, library stamp, date stamp and branch labels and vendors will supply the items below:

a) Spine labels
b) Public performance label
c) Closed caption label
d) Cases
e) Mylar Book jackets
f) 3M security strips or overlays
g) Label protectors on spine labels not covered by book jackets

4) A vendor supplied barcode would be preferred. It must meet JPL standards, scan correctly

and operate with JPL's scanners. It must be in the required format which is code 3 of 9 with a start number to be determined by the library. **If vendor plans to provide barcodes for JPL a sample shall be provided to be tested by the library.**

a) For non-print materials, DVD and spoken CD specifically, the JPL prefers the vendor be able to provide digital processing which will incorporate labeling requirements. Digital processing shall be cost effective and allow for labeling to appear in locations specified in the attached processing manuals. **Vendors who propose to do digital processing shall provide examples of each processed format with their proposal.**

b) **Vendor shall provide samples of each type of processed material to include hardcover with Mylar jacket to cover and protect dust jacket, mass market paperback, trade paperback, children's book, compact disc (single disc and multi disc set), spoken word on CD and DVD (single disc and multi disc set) with JPL specified processing as part of their proposal.**

4.7 **Error Rates/Performance.**

1) **Cataloging error rate shall not exceed 1%.** After a 60-day learning period, the vendor shall be contractually required to credit the JPL for one third the shelf ready cost of each affected record for all catalog record errors in excess of 2% of the number sampled. This credit will reimburse the City for its efforts in correcting the work of the vendor.

2) **Item linking error rate shall not exceed 1%.** After a 60-day learning period, the vendor shall be contractually required to credit the JPL for one third the shelf ready cost of each affected record for all linking record errors in excess of 2% of the number sampled. This credit will reimburse the City for its efforts in correcting the work of the vendor.

3) **Processing error rate shall not exceed 1%.** After a 60-day learning period, the vendor shall be contractually required to credit the JPL for one third the shelf ready cost of each affected record for all processing record errors in excess of 2% of the number sampled. This credit will reimburse the City for its efforts in correcting the work of the vendor.

4.8 **Bestsellers/Automatic Shipment Plans.**

1) JPL may request automatic shipment of processed high-demand material based on selection criteria supplied by the library. Examples of criteria might be all fiction, excluding short stories, published by specific best-selling authors; books on ephemeral subjects like computers; all titles on a specified nationwide reading list; or juvenile or teen series titles in print or DVD. **Please provide a list of available plans.**

2) Notification and verification of materials to be sent as part of the plan(s) must be made to JPL at least 60 days prior to shipment.

4.9 **Standing Orders.**

Vendor shall identify materials available as standing orders including specific titles, series and formats.

4.10 **Order status.**

1) Electronic confirmations are required for electronic and EDI orders placed and accessible through FTP web address.

2) Vendor shall provide a monthly status report, indicating the status of current unfilled orders. **Vendor shall provide a sample status report as part of the bid and provide definitions for all status codes.**

3) Vendor shall automatically cancel back orders at time periods specified by JPL (cancellation times vary by material type). Cancellation of orders whose term has expired must be reported to JPL on a monthly basis.

4.11 Deliveries.

1) Shipments shall be to:

Jacksonville Public Library
University Park Branch/Support Services Department
3435 University Blvd. N., Rear of Building
Jacksonville, FL 32277

and must arrive between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. Delivery to the Support Services Department is to be made at the rear of the building and must be made to the inside of the building.

2) Freight carriers are to be notified by vendors that shipments must arrive inside the University Park/Support Services building. Bills of lading must clearly state that deliveries are inside the library building.

3) Shipping and delivery, including fuel surcharges, must be included at no cost to JPL.

4) All shipments shall include a packing slip listing quantities, titles, ISBNs, unit price and purchase order number(s). Packing slip must list "bill to" and "ship to" addresses. Packing slip must reference the corresponding invoice number.

5) Single shipments shall not exceed fifty boxes.

6) Multiple carton shipments will clearly have numbering of cartons labeled on the side of each carton so that the JPL can discern a total shipment (e.g. 1 of 4, 2 of 4, 3 of 4, 4 of 4). Total shipment indicators must be 16 point font or larger in order to be easily read. The carton which contains the packing slip must be clearly marked, "Packing slip included." **Please include a sample packing list.**

4.12 Returns.

1) Unless otherwise specified, all items shall be guaranteed, whether processed or not, for a minimum period of 60 days against defects in materials. During this period if a defect is found and it is determined not to be caused by misuse, the Vendor shall replace the item free of charge to the JPL.

2) Damaged, defective, or incorrectly shipped materials shall be returned to the Vendor at the Vendor's expense, prepaid upon the request of the JPL. The Vendor shall issue a U.P.S. call tag or the equivalent.

3) The JPL shall return for replacement or credit damaged or defective items at the vendor's expense even if they have been marked, stamped, or otherwise processed by the JPL. This includes audiovisual product defects which are often not detected until the first time they are used by a patron.

4) In the event of an error requiring the JPL to receive credit, a printed credit memo must be issued.

5) **A copy of the vendor's return policy and credit memo procedures shall be included with vendor's response.**

4.13 **Flexibility.**

Vendor shall have the ability to be flexible and have a willingness to work with the library to meet any special circumstances, changing needs or unforeseen problems that may occur during the contract period. For instance, issues that may arise from ILS upgrades, ideas from vendors on improving turn-around times and workflow improvement.

4.14 **Accounts.**

1) Vendor shall be able to provide and maintain multiple accounts for JPL. Such accounts shall include, but not be limited to:

a) Books, partially processed
b) Books shelf ready
c) Rush shelf ready orders
d) Rush orders, not processed
e) Board Books
f) Automatic Bestseller/Lease
g) Spoken materials, not processed
h) Spoken materials, shelf ready
i) Music CDs
j) Automatic shipment orders
k) Standing orders/continuations
l) Gift orders
m) DVD, shelf ready
n) DVD, partially processed
o) E books or e materials
p) International language materials
q) Opening day accounts

4.15 **Customer Support/Management Plan.**

Vendor shall provide support personnel for JPL who will provide the following products or services:

1) Problem resolution, with a guaranteed response time of 24 hours for all phone calls or correspondence received from JPL.

2) Authority to approve and implement any requested changes to JPL specifications received from the Library.

3) Provision of various reports at the request of JPL. For instance a weekly report of items back ordered, pending and shipped for requested accounts. **Provide examples of vendor generated reports.**

4) Assistance in developing new shelf-ready functionalities to reflect the changing needs of JPL.

5) Vendor shall identify the management team that will handle the JPL's account including key personnel responsible for functions such as Collection Development Services, Orders, Cataloging, Linking, Processing, Standing Orders, Invoicing and Accounts Receivable.

6) Vendor shall describe their management plan to deal with the various functions they would be performing for JPL, including their internal reporting structure and their internal and external communication methods.

7) Vendor shall indicate how changes during the term of the contract in various JPL specifications will be accommodated, i.e., changes in cataloging or processing specifications or changes in software.

8) Respond within 30 days of receipt of JPL's notice of reconciliation issues.

4.16 **<u>Invoicing.</u>**
Vendor shall provide:

1) Evidence of invoice generating flexibility. Invoices must include at a minimum:

   a) "Bill to" name and address
   b) "Ship to" name and address
   c) Vendor name and address
   d) Vendor remit to address
   e) City of Jacksonville Blanket order or contract number
   f) Integrated Library System generated Purchase order number
   g) Author/Title
   h) Binding
   i) List price of item
   j) Number of Copies
   k) Total list price for all copies
   l) Discount (percentage)
   m) Total cost for all copies after discount
   n) Itemized shelf-ready costs
   o) Shipping costs (if any)

2) Invoice to be supplied in duplicate with a packing list specific to that invoice in the shipment of materials. Box with invoice and packing list shall be clearly marked.

3) Separate invoices for each Integrated Library System generated purchase order number are not required, but separate invoices shall be required for different billing accounts.

4) In the event an invoice is incorrect, the JPL cannot make corrections to an invoice. The vendor must issue a corrected invoice, as well as a credit memo to void the incorrect billing.

5) Shall provide an accounts receivable representative assigned to the JPL account with toll free telephone and e mail address for customer service.

6) **Please attach a sample of invoice and monthly statement.**

4.17 **Special Projects and Conditions.**

1) In the event the JPL upgrades its Sirsi Dynix Symphony Integrated library system version 3.5.2.1 or changes to a different integrated library system during the term of the contract, the vendor shall assist in coordinating the implementation and changes. The vendor shall work with system upgrades to insure seamless and efficient transfer as it affects ordering, cataloging, processing and any other relevant or related function or operation.

2) The vendor must be willing to allow the City of Jacksonville's legal counsel to negotiate changes to any required end user license agreements required by the vendor for electronic materials platforms or other services requiring an end user license as part of the overall library materials contract.

3) The JPL may wish to use the vendor's services for special projects to enhance existing collections or for a possible future opening day collection project.

4) If opening day collection services or collection enhancement services are required, based on detailed collection development profiles, vendor shall provide selection lists and aids from which JPL staff can select materials for the collection. Such lists shall be provided via the vendor's web based online bibliographic software and, upon request, via Excel.

5) If opening day collection services are required, comparison of selections to library holdings upon successful holdings load shall be required.

6) Cataloging, linking and processing for opening day or collection enhancement materials shall be based on standards as outlined in Exhibits A and B of this proposal.

7) If opening day collection services are required, storage and delivery of materials in shelf order as specified by the JPL shall be required.

8) Delivery of materials may be to the primary point of delivery as outlined in section 4.11.1 of this proposal. Other possibilities shall be shipment to a secondary delivery point or storage by the vendor in a fully insured, climate-controlled warehouse facility until appropriate date for delivery is determined by the JPL.

9) Ability to add RFID tags instead of 3M tattle tape if a RFID conversion project is authorized at a future date. Samples and costs shall be required if a project is authorized.

BAKER & TAYLOR
the future delivered

January 29, 2020

Charlene Adkins
Collection Development Manager
Support Services Department
Jacksonville Public Library
University Park Branch
3435 University Blvd. N.
Jacksonville, FL 32277

RE: Information Regarding State of Florida ACS No. 55101500-ACS-17-1
Books and Non-Print Library Materials and Ancillary Services

Dear Ms. Adkins:

Baker & Taylor is an awarded vendor for the above referenced ACS agreement with the State of Florida. In accordance with this agreement, we are pleased to extend terms and conditions of sale to Jacksonville Public Library in support of the Library's purchasing and workflow requirements as outlined in Exhibit A.

Should you have any questions, please contact me at 800-775-7930, ext. 3245. I will be pleased to answer any questions or to clarify any information.

Sincerely,

Lee Ann Queen

Lee Ann Queen
Director – Pricing Services

Baker & Taylor
2550 West Tyvola Road, Ste. 300
Charlotte, NC 28217

Telephone: 800-775-7930, ext. 3245
Fax: 704-998-3260
E-Mail: queenl@baker-taylor.com

FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
state purchasing
We serve those who serve Florida

Alternate Contract Source (ACS)
No. 55101500-ACS-17-1
For
Books and Non-Print Library Materials, and Related Ancillary Services

This Contract is between the State of Florida, Department of Management Services (Department), an agency of the State of Florida and Baker & Taylor, LLC (Contractor), collectively referred to herein as the "Parties".

The Department is authorized by subsection 287.042(16), Florida Statutes, "to evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, if it is determined in writing to be cost-effective and in the best interest of the state, to enter into a written agreement authorizing an agency to make purchases under such contract."

The State of New York competitively procured Books and Non-Print Library Materials, and Related Ancillary Services, and signed contract award number 22868 with the Contractor, attached hereto as Exhibit C (Master Agreement). The Master Agreement is effective June 1, 2015, and terminates on May 31, 2020. Renewal options are available.

The Department evaluated the Master Agreement, and hereby acknowledges that use of the Master Agreement as an alternative source contract is cost-effective and in the best interest of the State.

Accordingly, the Parties agree as follows:

1. Term and Effective Date.

The initial term of this Contract will become effective on June 1, 2017 or on the date the document is signed by all Parties, whichever is later, consistent with the Master Agreement, unless terminated earlier in accordance with the General Contract Conditions.

2. Renewal.

Upon agreement of the Parties, this ACS may be renewed. Renewals must be in writing and are subject to the same terms, conditions, and modifications set forth in this ACS.

3. Modifications or Additions to Master Agreement.

As used in this document, "Contract" and "ACS" (whether or not capitalized) shall, unless the context requires otherwise, mean this document and all incorporated Exhibits, which set forth the entire understanding of the Parties and supersedes all prior agreements. All modifications to this Contract must be in writing and signed by all Parties. Amendments to the Master Agreement will be automatically incorporated into this ACS.

All Exhibits attached or listed below are incorporated in their entirety into, and shall form part of this Contract. Exhibits A and B modify or supplement the terms and conditions of the Master Agreement. The parties agree that these modifications or additions shall apply to actions between the Contractor and the State of Florida (including participating Florida agencies and eligible users). In the event of a conflict, the following order of precedence shall apply:

a) This ACS and amendments, with the latest issued having priority.
b) Exhibit A: General Contract Conditions (Florida).
c) Exhibit B: State of Florida Price Sheet or Special Contract Conditions (Florida).
d) Exhibit C: Master Agreement.
e) Exhibit D: Purchase Orders.

Where the laws and regulations of a state other than the State of Florida are cited or referenced in the Master Agreement, such citation or reference shall be replaced by the comparable Florida law or regulation.

4. Purchase Orders.

Upon execution of this Contract, Customers, as defined in Section 1.1 of the General Contract Conditions (Exhibit A), may purchase products and services under this ACS using this State of Florida ACS number 55101500-ACS-17-1. Customers acknowledge and agree to be bound by the terms and conditions of the Master Agreement except as otherwise specified in this Contract and its Exhibits.

Alternate Contract Source
No. 55101500-ACS-17-1
For
Books and Non-Print Library Materials, and Related Ancillary Services

5. Primary Contacts.

Department's Contract Manager:
Jennifer Hyatt
Division of State Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399-0950
Telephone: (850) 488-8366
Email: jennifer.hyatt@dms.myflorida.com

Contractor's Contract Manager:
Lee Ann Queen
Baker & Taylor, LLC
2550 West Tyvola Road – Ste. 300
Charlotte, NC 28217
Telephone: 704-998-3245
E-Mail: bids@baker-taylor.com

6. Warranty of Authority.

Each person signing this document warrants that he or she is duly authorized to do so and to bind the respective party.

7. Entire Agreement of the Parties.

This document and the attached exhibits constitute the ACS and the entire understanding of the parties. Any amendments hereto must be in writing and signed by the parties.

IN WITNESS WHEREOF, the Parties hereto have caused this agreement, which includes the attached and incorporated Exhibits, to be executed by their undersigned officials as duly authorized. This agreement is not valid and binding until signed and dated by the Parties.

CONTRACTOR **Baker & Taylor, LLC**	**STATE OF FLORIDA,** **DEPARTMENT OF** **MANAGEMENT SERVICES**
Lee Ann Queen	
Lee Ann Queen, Director-Pricing Services	**Rosalyn Ingram, State Purchasing Director**
7-27-2017	
Date:	**Date:**

5. Primary Contacts.

Department's Contract Manager:
Jennifer Hyatt
Division of State Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399-0950
Telephone: (850) 488-8366
Email: jennifer.hyatt@dms.myflorida.com

Contractor's Contract Manager:
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Baker & Taylor, LLC
2550 West Tyvola Road – Ste. 300
Charlotte, NC 28217
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CONTRACTOR
Baker & Taylor, LLC

Lee Ann Queen

Lee Ann Queen, Director-Pricing Services

7-27-2017
Date:

STATE OF FLORIDA,
DEPARTMENT OF
MANAGEMENT SERVICES

Rosalyn Ingram, State Purchasing Director

8/3/17
Date:

GENERAL CONTRACT CONDITIONS

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These General Contract Conditions supersede and replace in their entirety all General Contract Conditions, Form PUR 1000, which is incorporated by reference in Rule 60A-1.002, Florida Administrative Code (F.A.C.)

SECTION 1. DEFINITIONS.

The following definition applies in addition to the definitions in Chapter 287, Florida Statutes, (F.S.) and Rule Chapter 60A-1, F.A.C.:

1.1 Customer.
The agency or eligible user that purchases commodities or contractual services pursuant to the Contract.

SECTION 2. CONTRACT TERM AND TERMINATION.

2.1 Initial Term.
The initial term will begin on the date set forth in the Contract or on the date the Contract is signed by all Parties, whichever is later.

2.2 Renewal.
Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract, and in accordance with section 287.057(13), F.S., and Rule 60A-1.048, F.A.C.

2.3 Suspension of Work and Termination.

2.3.1 Suspension of Work.
The Department may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the State of Florida to do so. A Customer may, at its sole discretion, suspend a resulting contract or purchase order, at any time, when in the best interest of the Customer to do so. The Department or Customer will provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor must comply with the notice and will cease the activities associated with any resulting contract or purchase order. Within 90 days, or any longer period agreed to by the Contractor, the Department or Customer will either (1) issue a notice authorizing resumption of work, at which time activity will resume, or (2) terminate the Contract or a resulting contract or purchase order. Suspension of work will not entitle the Contractor to any additional compensation.

2.3.2 Termination for Convenience.
The Contract may be terminated by the Department in whole or in part at any time, in the best interest of the State of Florida. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

2.3.3 Termination for Cause.
If the Department determines that the performance of the Contractor is not satisfactory, the Department may, at its sole discretion, (a) immediately terminate the Contract, (b) notify the Contractor of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Contract will terminate at the end of such time, or (c) take other action deemed appropriate by the Department.

SECTION 3. PAYMENT AND FEES.

3.1 Pricing.
The Contractor will not exceed the pricing set forth in the Contract.

3.2 Price Decreases.
The following price decrease terms will apply to the Contract:

(a) Quantity Discounts. Contractor may offer additional discounts for one-time delivery of large single orders.

(b) Preferred Pricing. Consistent with the goals of section 216.0113, F.S., Contractor acknowledges and recognizes that the Department wants to take advantage of any improvements in pricing over the course of the Contract period. To that end, the pricing indicated in this Contract is a maximum guarantee under the terms of this clause. Contractor's pricing will not exceed, on an aggregate basis, the pricing offered under comparable contracts for public entities. Comparable contracts are those which are similar in size, scope and terms. The Contractor shall submit to the Department a completed Preferred Pricing affidavit form annually.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor must submit documentation identifying the proposed (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

3.3 Payment Invoicing.
The Contractor will be paid upon submission of properly certified invoices to the Customer after delivery and acceptance of commodities or contractual services is confirmed by the Customer. Invoices must contain detail sufficient for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

3.4 Purchase Order.
A Customer may use purchase orders to buy commodities or contractual services pursuant to the Contract. The Contractor must provide commodities or contractual services pursuant to purchase orders. The purchase order period of performance survives the expiration of the Contract. The duration of purchase orders must not exceed the expiration of the Contract by more than 12 months.

3.5 Travel.
Travel expenses are not reimbursable unless specifically authorized by the Customer in writing, and may be reimbursed only in accordance with section 112.061, F.S.

3.6 Annual Appropriation.
Pursuant to section 287.0582, F.S., if the Contract binds the State of Florida or an agency for the purchase of services or tangible personal property for a period in excess of one fiscal year, the State of Florida's performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Legislature.

3.7 Transaction Fees.
The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), Florida Statutes. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, Florida Administrative Code, or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees, when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction

Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

3.8 Taxes.
The State of Florida is not required to pay any taxes, including customs and tariffs, on commodities or contractual services purchased under the Contract.

3.9 Return of Funds.
Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor by the Department or Customer. The Contractor must return any overpayment within 40 calendar days after either discovery by the Contractor, its independent auditor, or notification by the Department or Customer of the overpayment.

SECTION 4. CONTRACT MANAGEMENT.

4.1 Composition and Priority.
The Contractor agrees to provide commodities or contractual services to the Customer within the manner and at the location specified in the Contract and any attachments to the Contract. Additionally, the terms of the Contract supersede the terms of any and all prior or contemporaneous agreements between the Parties.

4.2 Notices.
All notices required under the Contract must be delivered to the designated Contract Manager by certified mail, return receipt requested, by reputable air courier service, email, or by personal delivery, or as otherwise identified by the Department.

4.3 Department's Contract Manager.
The Department's Contract Manager, is primarily responsible for the Department's oversight of the Contract. In the event that the Department changes the Contract Manager, the Department will notify the Contractor. Such a change does not require an amendment to the Contract.

4.4 Contractor's Contract Manager.
The Contractor's Contract Manager is primarily responsible for the Contractor's oversight of the Contract performance. In the event that the Contractor changes its Contract Manager, the Contractor will notify the Department. Such a change does not require an amendment to the Contract.

4.5 Diversity Reporting.
The State of Florida supports its diverse business community by creating opportunities for woman-, veteran-, and minority-owned small business enterprises to participate in procurements and contracts. The Department encourages supplier diversity through certification of woman-, veteran-, and minority-owned small business enterprises, and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Diversity (OSD) at osdinfo@dms.myflorida.com.

Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and Federal Employer Identification Number of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each Customer purchasing under the Contract.

4.6 RESPECT.

Subject to the agency determination provided for in Section 413.036, F.S., the following statement applies:

> IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about the designated nonprofit agency and the commodities or contractual services it offers is available at http://www.respectofflorida.org.

4.7 PRIDE.

Subject to the agency determination provided for in Sections 946.515 and 287.042(1), F.S., the following statement applies:

> IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at http://www.pride-enterprises.org.

SECTION 5. COMPLIANCE WITH LAWS.

5.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with Section 274A of the Immigration and Nationality Act, the Americans with

Disabilities Act, Health Insurance Portability and Accountability Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status.

Pursuant to subsection 287.058(1), F.S., the provisions of subparagraphs 287.058(1)(a)-(c), F.S., are hereby incorporated by reference, to the extent applicable.

5.2 Governing Law and Venue.
The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives any and all privileges and rights relating to venue it may have under Chapter 47, F.S., and any and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those based on convenience. The Contractor hereby submits to venue in the county chosen by the Department.

5.3 Department of State Registration.
The Contractor and any subcontractors that assert corporate status must provide the Department with conclusive evidence, per section 607.0127, F.S., of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity and maintain such status or authorization through the life of the Contract and any resulting contract or purchase order.

5.4 Convicted and Discriminatory Vendor Lists.
In accordance with sections 287.133 and 287.134, F.S., an entity or affiliate who is on the Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors or consultants have been placed on the Convicted Vendor List or the Discriminatory Vendor List during the term of the Contract.

5.5 Contractor Certification.
If the Contract exceeds $1,000,000.00 in total, not including renewal years, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List created pursuant to sections 215.473, F.S. and 215.4725 F.S, respectively. Pursuant to section 287.135(5), F.S., and 287.135(3), F.S., Contractor agrees the Department may immediately terminate the Contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel during the term of the Contract.

5.6 Cooperation with Inspector General.
Pursuant to subsection 20.055(5), F.S., Contractor, and any subcontractor to the Contractor, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any

type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State (available at: http://dos.myflorida.com/library-archives/records-management/general-records-schedules/), whichever is longer. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include, but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

5.7 Inspection.
Section 215.422, F.S., provides that agencies have five working days to inspect and approve commodities or contractual services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense.

SECTION 6. MISCELLANEOUS.

6.1 Notice of Legal Actions.
The Contractor must notify the Department of any legal actions filed against it for a violation of any laws, rules, codes, ordinances or licensing requirements within 30 days of the action being filed. The Contractor must notify the Department of any legal actions filed against it for a breach of a contract of similar size and scope to this Contract within 30 days of the action being filed. Failure to notify the Department of a legal action within 30 days of the action will be grounds for termination for cause of the Contract.

6.2 Subcontractors.
The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all subcontracted work. The Department supports diversity in its procurements and contracts, and requests that Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The Contractor may contact the OSD at osdhelp@dms.myflorida.com for information on certified small business enterprises available for subcontracting opportunities.

6.3 Assignment.
The Contractor will not sell, assign or transfer any of its rights, duties or obligations under the Contract without the prior written consent of the Department. In the event of any assignment, the Contractor remains secondarily liable for performance of the Contract. The Department may assign the Contract to another state agency.

6.4 Independent Contractor.
The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the Department and are not entitled to the benefits of State of

Florida employees. The Department will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under the Contract.

6.5 Risk of Loss.

Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer or the Department rejects a commodity, Contractor will remove the commodity from the premises within 10 days after notification of rejection, and the risk of loss will remain with the Contractor. Commodities not removed by the Contractor within 10 days will be deemed abandoned by the Contractor and the Customer or the Department will have the right to dispose of it as its own property. Contractor will reimburse the Customer or the Department for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

6.6 Safety Standards.

All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State of Florida inspector. Acceptability customarily requires, at a minimum, an identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories, and National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished must meet all applicable requirements of the Occupational Safety and Health Act and State of Florida and federal requirements relating to clean air and water.

6.7 Ombudsman.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

6.8 Time is of the Essence.

Time is of the essence regarding each and every obligation of the Contractor. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

6.9 Waiver.

The delay or failure by the Department or Customer to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

6.10 Modification and Severability.

The Contract may only be modified by written agreement between the Department and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

6.11 Shipping.

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in Florida and shall include inside delivery inside doors of Authorized User's receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method. There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc.

SECTION 7. WORKERS' COMPENSATION AND GENERAL LIABILITY INSURANCE, AND INDEMNIFICATION

7.1 Workers' Compensation Insurance.

To the extent required by law, the Contractor must be self-insured against, or must secure and maintain during the life of the contract, Worker's Compensation Insurance for all its employees connected with the work of this project, and in case any work is subcontracted, the Contractor must require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees engaged in work under the resulting contract are covered by the Contractor's insurance program. Self-insurance or insurance coverage must comply with the Florida Worker's Compensation law. In the event hazardous work is being performed by the Contractor under the resulting contract or purchase order and any class of employees performing the hazardous work is not protected under Worker's Compensation statutes, the Contractor must provide, and cause each subcontractor to provide adequate insurance satisfactory to the Department for the protection of employees not otherwise protected.

7.2 General Liability Insurance

The Contractor must secure and maintain Commercial General Liability Insurance including bodily injury, property damage, product-liability, personal & advertising injury and completed operations. This insurance must provide coverage for all claims that may arise from the services, and operations completed under the Contract and any resulting contract or purchase order, whether such services or operations are by the Contractor or anyone directly or indirectly employed by them. Such insurance must include a Hold Harmless Agreement in favor of the State of Florida and also include the State of Florida as an Additional Named Insured for the entire length of the Contract and any resulting contract or purchase order. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the Contract and any resulting contract or purchase order.

All insurance policies must be with insurers licensed or eligible to transact business in the State of Florida. The Contractor's current certificate of insurance must contain a provision that the insurance must not be canceled for any reason except after thirty (30) days written notice to the Department's Contract Manager.

The Contractors must submit insurance certificates evidencing such insurance coverage prior to execution of a contract with the Department.

The Contractor must require its insurance carrier to add the Department to the insurance policies as an additional insured, as provided below:

Florida Department of Management Services
c/o Division of State Purchasing
4050 Esplanade Way, Suite 36060
Tallahassee, Florida 32399-0950

7.3 Indemnification.

The Contractor agrees to indemnify, defend, and hold the Department, Customer, the State of Florida, its officers, employees and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right or out of any acts, actions, breaches, neglect or omissions of the Contractor, its employees, agents, subcontractors, assignees or delegates related to the Contract, as well as for any determination arising out of or related to the Contract that the Contractor or Contractor's employees, agents, subcontractors, assignees or delegates are not independent contractors in relation to the Department. The Contract does not constitute a waiver of sovereign immunity or consent by the Department or the State of Florida or its subdivisions to suit by third parties.

Without limiting this indemnification, the Department or Customer may provide the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense.

SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT AND INTELLECTUAL PROPERTY.

8.1 Public Records.

The Department may unilaterally cancel this Contract for refusal by the Contractor to comply with this section by not allowing public access to all documents, papers, letters or other material made or received by the Contractor in conjunction with the Contract, unless the records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1), F.S.

Solely for the purposes of this section the contract manager is the agency custodian of public records, unless another is designated per (e), below.

If, under a resulting contract or purchase order, the Contractor is providing services and is acting on behalf of a public agency, as provided by section 119.0701, Florida Statutes. The Contractor shall:

(a) Keep and maintain public records required by the public agency to perform the service;

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within reasonable time and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following the completion of the contract if the contractor does not transfer the records to the public agency;

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency; and

(e) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.**

8.2 Protection of Trade Secrets or Confidential Information.

If the Contractor considers any portion of materials made or received in the course of performing the Contract ("contract-related materials") to be trade secret under section 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as "confidential" when submitted to the Department.

If the Department receives a public records request for contract-related materials designated by the Contractor as "confidential," the Department will provide only the portions of the contract-related materials not designated as "confidential." If the requester asserts a right to examine contract-related materials designated as "confidential," the Department will notify the Contractor. The Contractor will be responsible for responding

to and resolving all claims for access to contract-related materials it has designated "confidential."

If the Department is served with a request for discovery of contract-related materials designated "confidential," the Department will promptly notify the Contractor about the request. The Contractor will be responsible for filing the appropriate motion or objection in response to the request for discovery. The Department will provide materials designated "confidential" only if the Contractor fails to take appropriate action, within timeframes established by statute and court rule, to protect the materials designated as "confidential" from disclosure.

The Contractor will protect, defend, and indemnify the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of contract-related materials as "confidential."

8.3 Document Management.

The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers and documents that were made in relation to this Contract. Contractor must retain all documents related to the Contract for five years after expiration of the Contract, or, if longer, the period required by the General Records Schedules maintained by the Florida Department of State available at: http://dos.myflorida.com/library-archives/records-management/general-records-schedules/.

8.4 Intellectual Property.

Unless specifically addressed in the Contract, intellectual property rights to all property created or otherwise developed by the Contractor for the Department will be owned by the State of Florida through the Department at the completion of the Contract.

Any inventions or discoveries developed in the course of or as a result of services performed under the Contract which are patentable pursuant to 35 U.S.C. §101 are the sole property of the state of Florida. Contractor must inform the Department of any inventions or discoveries developed or made in connection with the Contract and will be referred to the Florida Department of State for a determination on whether patent protection will be sought for the invention or discovery. The State of Florida will be the sole owner of any and all patents resulting from any invention or discovery made in connection with this contract.

Contractor must notify the Department of State of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed in connection with the Contract are the sole property of the State of Florida.

SECTION 9. DATA SECURITY AND SERVICES.

9.1 Duty to Provide Secure Data.

The Contractor will maintain the security of State of Florida Data including, but not limited to, a secure area around any display of such Data or Data that is otherwise visible. The

Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information.

9.2 Warranty of Security.

Unless otherwise agreed in writing, the Contractor and its subcontractors will not perform any of the services from outside of the United States, and the Contractor will not allow any State of Florida Data to be sent by any medium, transmitted or accessed outside of the United States.

Notwithstanding any provision of this Contract to the contrary, the Contractor must notify the Department as soon as possible, in accordance with the requirements of section 501.171, F.S., and in all events within one (1) business day in the event Contractor discovers any Data is breached, any unauthorized access of Data occurs (even by persons or companies with authorized access for other purposes), any unauthorized transmission of Data or any credible allegation or suspicion of a material violation of the above. This notification is required whether the event affects one agency/customer or the entire population. The notification must be clear and conspicuous and include a description of the following:

(a) The incident in general terms.
(b) The type of information that was subject to the unauthorized access and acquisition.
(c) The type and number of entities who were, or potentially have been affected by the breach.
(d) The actions taken by the Contractor to protect the Data from further unauthorized access. However, the description of those actions in the written notice may be general so as not to further increase the risk or severity of the breach.

9.3 Remedial Measures.

Upon becoming aware of an alleged security breach, Contractor's Contract Manager must set up a conference call with the Department's Contract Manager. The conference call invitation must contain a brief description of the nature of the event. When possible, a 30 minute notice will be given to allow Department personnel to be available for the call. If the designated time is not practical for the Department, an alternate time for the call will be scheduled. All available information must be shared on the call. The Contractor must answer all questions based on the information known at that time and answer additional questions as additional information becomes known. The Contractor must provide the Department with final documentation of the incident including all actions that took place. If the Contractor becomes aware of a security breach or security incident outside of normal business hours, the Contractor must notify the Department's Contract Manager and in all events, within one business day.

9.4 Indemnification (Breach of Warranty of Security).

The Contractor agrees to defend, indemnify and hold harmless the Department, Customer, the State of Florida, its officers, directors and employees for any claims, suits or proceedings related to a breach of the Warranty of Security. The Contractor will include credit monitoring services at its own cost for those individuals affected or potentially affected by a breach of this warranty for a two year period of time following the breach.

9.5 Annual Certification.

The Contractor is required to submit an annual certification demonstrating compliance with the Warranty of Security to the Department by December 31 of each Contract year.

SECTION 10. GRATUITIES AND LOBBYING.

10.1 Gratuities.

The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

10.2 Lobbying.

In accordance with sections 11.062 and 216.347, F.S., Contract funds are not for the purpose of lobbying the Legislature, the judicial branch, or the Department. Pursuant to subsection 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract, after the Contract execution and during the Contract's term.

SECTION 11. CONTRACT MONITORING.

11.1 Performance Standards.

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Statement of Work and attachments to the Contract. The Department and the Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof. Coordination must be maintained by the Contractor with representatives of the Customer, the Department, or of other agencies involved in the Contract on behalf of the Department.

11.2 Performance Deficiency.

The Department or Customer may, in its sole discretion, notify the Contractor of the deficiency to be corrected, which correction must be made within a time-frame specified by the Department or Customer. The Contractor must provide the Department or Customer with a corrective action plan describing how the Contractor will address all issues of contract non-performance, unacceptable performance, and failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance.

11.3 Financial Consequences of Non-Performance.

If the corrective action plan is unacceptable to the Department or Customer, or fails to remedy the performance deficiencies, the Contractor will be assessed a non-performance retainage equivalent to 10% of the total invoice amount or as specified in the Contract. The retainage will be applied to the invoice for the then-current billing period. The retainage will be withheld until the Contractor resolves the deficiency. If the deficiency is subsequently resolved, the Contractor may invoice the Customer for the retained amount during the next billing period. If the Contractor is unable to resolve the deficiency, the funds retained will be forfeited.

11.4 Liquidated Damages.

The Contractor will promptly notify the Department or Customer upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department or Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department or Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department or Customer and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department or Customer's delay.

The Contractor acknowledges that untimely performance or other material noncompliance will damage the Department or Customer, but by their nature such damages may be difficult to ascertain. Accordingly, any liquidated damages provisions stated in the solicitation will apply to this Contract. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

11.5 Force Majeure, Notice of Delay, and No Damages for Delay.

The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor will notify the Department or Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within 10 days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five days after the date the Contractor first had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Department or Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless the Department or Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State of Florida or to Customers, in which case the Department or Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the

delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

SECTION 12. CONTRACT AUDITS.

12.1 Performance or Compliance Audits.

The Department may conduct, or cause to have conducted, either or both performance and compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractor's data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners or agents of the Contractor, pertaining to this Contract, may be inspected by the Department upon 15 days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The State of Florida's Chief Financial Officer and the Office of the Auditor General also have authority to perform audits and inspections.

12.2 Payment Audit.

Records of costs incurred under terms of the Contract will be maintained. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Department, State of Florida's Chief Financial Officer or the Office of the Auditor General for audit.

SECTION 13. BACKGROUND SCREENING AND SECURITY.

13.1 Background Check.

The Department may require the Contractor and its employees, agents, representatives and subcontractors to provide fingerprints and be subject to such background checks as directed by the Department. The cost of the background checks will be borne by the Contractor. The Department may require the Contractor to exclude the Contractor's employees, agents, representatives or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three calendar days any arrest for any Disqualifying Offense. The Contractor must notify the Contract Manager within 24 hours of all details concerning any reported arrest. The Contractor will ensure that all background screening will be refreshed upon the request of the Department for each person during the term of the Contract.

13.2 E-Verify.

In accordance with Executive Order 11-116, the Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all

new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five days of notice of Contract award, and provide the Contract Manager a copy of its MOU within five days of Contract execution. The link to E-Verify is provided below. http://www.uscis.gov/e-verify. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five days to the Contract Manager identifying the new hire with its E-Verify case number.

13.3 Disqualifying Offenses.

If at any time it is determined that a person has a criminal misdemeanor or felony record regardless of adjudication (e.g., adjudication withheld, a plea of guilty or nolo contendere, or a guilty verdict) within the last six years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to State of Florida Data or directly performing services under the Contract. The disqualifying offenses are as follows:

(a) Computer related or information technology crimes
(b) Fraudulent practices, false pretenses and frauds, and credit card crimes
(c) Forgery and counterfeiting
(d) Violations involving checks and drafts
(e) Misuse of medical or personnel records
(f) Felony theft

13.4 Communications and Confidentiality.

The Contractor agrees that it will make no statements, press releases, or publicity releases concerning the Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, or any particulars thereof, during the period of the Contract, without first notifying the Department's Contract Manager or the Department designated contact person and securing prior written consent. The Contractor must maintain confidentiality of all confidential data, files, and records related to the services and commodities provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of the Department security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

APPROVED
By WVerdejo at 3:13 pm, Jan 27, 2020

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 01/24/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Services Central, Inc.
Chicago IL Office
200 East Randolph
Chicago IL 60601 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): 800-363-0105
E-MAIL ADDRESS:

INSURED
Baker & Taylor LLC
3 Westbrook Corporate Center
Suite 200
Westchester IL 60154 USA

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Hartford Fire Insurance Co.	19682
INSURER B:	Trumbull Insurance Company	27120
INSURER C:	Twin City Fire Insurance Company	29459
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES **CERTIFICATE NUMBER: 570080313298** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Gen Agg Cap Limit $25M GEN'L AGGREGATE LIMIT APPLIES PER POLICY PRO-JECT X LOC OTHER:	Y	Y	83CSE526402	04/01/2019	04/01/2020	EACH OCCURRENCE	$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$2,000,000
							PRODUCTS - COMP/OP AGG	$2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y	Y	83 CSE S26403	04/01/2019	04/01/2020	COMBINED SINGLE LIMIT (Ea accident)	$2,000,000
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION						EACH OCCURRENCE	
							AGGREGATE	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	83WNS26400 AOS 83WBRS26401 WI	04/01/2019 04/01/2019	04/01/2020 04/01/2020	X PER STATUTE OTH-ER	
C							E.L. EACH ACCIDENT	$1,000,000
							E.L. DISEASE-EA EMPLOYEE	$1,000,000
							E.L. DISEASE-POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

.Project Name: JPL- Books & Non-Print Library Materials and Ancillary Services The City of Jacksonville its members, officials, officers, employees and agents are named as Additional Insured with regard to General Liability and Auto Liability. Coverages are Primary & Non-Contributory. A waiver of subrogation in favor of The City of Jacksonville its members, officials, officers, employees and agents applies to General Liability , Auto Liability and Workers Compensation. 30 day notice of cancellation to The City of Jacksonville applies all policies.

CERTIFICATE HOLDER

City of Jacksonville
117 W. Duval Street Ste. 335
Jacksonville FL 32202 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Central, Inc.

Holder Identifier :

Certificate No : 570080313298

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INDEMNIFICATION

APPLICANT shall hold harmless, indemnify, and defend the City of Jacksonville and City's members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Contract, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this Contract contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the Contract; and

3. Intellectual Property Liability, to the extent this Contract contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services as contemplated in this Contract, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to Buyer, so that the Service or product is non-infringing.

If an Indemnifying Party exercises its rights under this Contract, the Indemnifying Party will (1) provide reasonable notice to the Indemnified Parties of the applicable claim or liability, and (2) allow Indemnified Parties, at their own expense, to participate in the litigation of such claim or liability to protect their interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to the Contract or otherwise. Such terms of indemnity shall survive the expiration or termination of the Contract.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

Additional Insurance Provisions

A. Additional Insured: All insurance except Worker's Compensation shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.

B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.

C. Applicant's Insurance Primary. The insurance provided by the Applicant shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.

D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Contract shall remain the sole and exclusive responsibility of the named insured Applicant. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Contract.

E. Applicant's Insurance Additional Remedy. Compliance with the insurance requirements of this Contract shall not limit the liability of the Applicant or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise.

F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Applicant shall relieve Applicant of Applicant's full responsibility to provide insurance as required under this Contract.

G. Certificates of Insurance. Applicant shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.

H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.

I. Survival. Anything to the contrary notwithstanding, the liabilities of the Applicant under this Contract shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

Acknowledgement and Acceptance of Indemnification and Insurance Requirements

Applicant/Authorized Representative: Lee Ann Queen 1-29-2020

Signature **Date**

Exhibit B- Baker+Taylor Price Sheet

LOT 1 - IN-PRINT PUBLICATIONS

	Item 1 Trade	Item 2 Non-Trade	Item 3 Scientific/ Medical	Item 4 Technical	Item 5 Law	Item 6 Business/ Economics/ Financial	Item 7 Social Science/ Humanities	Item 8 Governmental	Item 9 Text Books	Item 10 Reference/ Encyclopedia	Item 11 Braille	Item 12 Handbooks	Item 13 University Press Publications	Item 14 Society or Association Publications	Item 15 Foreign Publications	Item 16 Out of Print Books	Item 17 a. Other:____	Item 17 b. Other:____	Item 17 c. Other:____	Item 18 Net Handling Charge
A. CLOTH BINDING	*Category Def I, II*	*Category Def IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def IX*	*Category Def VIII, IX*	*Category Def IX*		*Category Def IX*	*Category Def VIII, IX*	*Category Def IX*	*Category Def X*					*Category Def XI*
Discount per copy	42.50%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
Volume Pricing-Price Breaks for Single Title																				
2-4 copies	43.10%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
5+ copies	44.00%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
B. LIBRARY BINDING	*Category Def VI, VII*	*Category Def IX*	*Category Def. IX*	*Category Def IX*	*Category Def IX*	*Category Def IX*	*Category Def IX*	*Category Def IX*	*Category Def IX*	*Category Def IX*		*Category Def IX*	*Category Def VIII, IX*	*Category Def IX*	*Category Def X*					*Category Def XI*
Discount per copy	30.00%	7.50%	7.50%	7.50%	7.50%	7.50%	7.50%	7.50%	7.50%	7.50%	N/A	N/A	N/A	N/A	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
Volume Pricing-Price Breaks for Single Title																				
____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C. PAPERBACKS, QUALITY	*Category Def III, IV*	*Category Def IX*	*Category Def. VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def IX*	*Category Def VIII, IX*	*Category Def IX*		*Category Def IX*	*Category Def VIII, IX*	*Category Def IX*	*Category Def X*					*Category Def XI*
Discount per copy	35.00%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
Volume Pricing-Price Breaks for Single Title																				
2-4 copies	40.10%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
5+ copies	41.30%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
D. PAPERBACKS, MASS MARKET	*Category Def V*	*Category Def IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def VIII, IX*	*Category Def IX*	*Category Def VIII, IX*	*Category Def IX*		*Category Def IX*	*Category Def VIII, IX*	*Category Def IX*	*Category Def X*					*Category Def XI*
Discount per copy	35.00%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
Volume Pricing-Price Breaks for Single Title																				
2-4 copies	40.10%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
5+ copies	41.30%	7.50%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	35.0% or 7.5%	7.50%	35.0% or 7.5%	7.50%	N/A	7.50%	35.0% or 7.5%	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
E. PREBOUND HARDBACKS																				
Discount per copy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Volume Pricing-Price Breaks for Single Title																				
____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Other (please specify)																				
PawPrints PreBound Editions *Category Def. XV*	10.00%	10.00%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$0.00
Turtleback PreBound Editions *Category Def. XV*	28.00%	28.00%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$0.00
Activity Books *Item 1-Category Def. XIV / Item 2-Category Def. IX*	42.50%	7.50%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$4.99
Board Books *Item 1-Category Def. XIII / Item 2-Category Def. IX*	42.50%	7.50%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$4.95

Additional information

Material Category Definitions

I. Adult Trade Hardcover Editions (0, C) (may include some spoken word audio materials)
High demand materials from widely distributed publishers, designed for the general consumer, usually dealing with a subject matter having broad mass appeal. These titles are typically released in hardback and can be either fiction or current non-fiction. Publisher promotional/media expenditures and print runs are customarily higher for these titles than for most others. Inventory is maintained with preferred stock status (regularly stocked in three to four major warehouses). An example of a trade edition would be: The Broker by John Grisham, ISBN: [illegible]

II. Juvenile Trade Hardcover Editions (J)
High demand, juvenile materials from widely distributed publishers designed for the general consumer, usually dealing with a subject matter having broad mass appeal. These titles are typically released in hardback and can be either fiction or current non-fiction. Publisher promotional/media expenditures and print runs are customarily higher for these titles than for most others. Inventory is maintained with preferred stock status (regularly stocked in three to four major warehouses). An example of a trade edition would be: A Light in the Attic by Shel Silverstein, ISBN: [illegible]

III. Adult Quality Paperback Editions (B, C)
High demand paperback materials from widely distributed publishers, other than the standard rack size paperback, typically found in bookstores and other retail outlets. Inventory is maintained with preferred stock status (regularly stocked in three to four major warehouses). An example of a quality paperback would be: My Sister's Keeper by Jodi Picoult, ISBN: [illegible]

IV. Juvenile Quality Paperback Editions (G)
High demand, juvenile paperback materials from widely distributed publishers, other than the standard rack size paperback, typically found in bookstores and other retail outlets. Inventory is maintained with preferred stock status (regularly stocked in three to four major warehouses). An example of a quality paperback would be: Charlotte's Web by E.B. White, ISBN: [illegible]

V. Mass Market Paperback Editions (P)
A standard rack size paperback typically found in bookstores or other retail outlets. An example of a mass market paperback would be: The Girl Who Loved Tom Gordon by Stephen King, ISBN: [illegible]

VI. Single Edition Reinforced (R)
A high quality binding designed to provide a long shelf life in a heavy use environment. Although the binding is fanned and glued it may not be sewn, which is typically found in the publisher library edition. Subject content can include both fictional and non-fiction works appealing to juveniles as well as adults. These bindings are identified by the publisher to Baker & Taylor. An example of a single edition reinforced binding would be: Bunnicula Strikes Again! by James Howe, ISBN [illegible]

VII. Publisher Library Editions (Z)
Fiction as well as non-fiction materials appealing to both juveniles and adults, designed with the rugged durability required of the environment typically found in a library setting. Publisher Library Editions are traditionally of the highest quality, usually fanned, sewn and glued to provide the greatest possible shelf life of any binding. These bindings are identified by the publisher to Baker & Taylor. An example of a publisher library edition would be: If You Give A Pig A Pancake by Laura Joffe Numeroff, ISBN: [illegible]

VIII. University Press Trade Editions (A) (may include some spoken word audio materials)
This category would include any University Press Trade Editions, both adult and juvenile, and are subject to publisher reclassification. An example of a university press trade edition would be: The Oxford Companion to the Garden by Oxford University Press, ISBN: [illegible]

IX. Text, Technical, Reference, Small Press, and/or Titles of Limited Demand (S, X, H, O, L, M, V, T, U, W, Letter O, 4, 5, 6, 7, 8)
Category of materials includes, but is not limited to, text, technical, reference, professional medical, small press, and some university press titles (excluding University Press Trade Editions). It includes titles purchased from publishers on a non-returnable basis, those publishers that extend little discount to Baker & Taylor, and publishers whose titles have limited sales volume based upon a semi-annual review. It includes individual titles which do not qualify for preferred stock status [illegible]

X. Imported English and Non-English Language Editions (F, K, I, J)
Titles produced and distributed outside of the domestic US. These titles may be of any binding type and represent various publishers.

XI. Enhanced Service Program Titles (Dynamic Service) (I)
[illegible]

XII. Board Books (I)
Durable materials from widely distributed domestic publishers designed for young children; pages are manufactured of heavy gauge cardboard to prevent tearing. [illegible]

XIV. Novelty Items/Activity Books (J)
[illegible]

XV. Special Programs (G and E as indicated in Attachment A)
Programs, formats, or editions offered only by Baker & Taylor or not included in any other category. These programs include but may not be limited to PawPrints and Turtleback editions. [illegible]
PawPrints and Turtleback editions are prebound paperback editions. The original paperback cover is replaced and the work is rebound with a durable, washable, hard cover. [illegible]

	Item 1	Item 2	Item 3	Item 4	Item 5	Item 6	Item 7	Item 8	Item 9	Item 10	Item 11	Item 12	Item 13	Item 14	Item 15	Item 16	Item 17 a.	Item 17 b.	Item 17 c.	Item 18
	Trade	Non-Trade	Scientific/ Medical	Technical	Law	Business/ Economics/ Financial	Social Science/ Humanities	Governmental	Text Books	Reference/ Encyclopedia	Braille	Handbooks	University Press Publications	Society or Association Publications	Foreign Publications	Out of Print Books	Other:_____	Other:_____	Other:_____	Net Handling Charge
DISCOUNT FOR SINGLE UNIT	*Category Def. XII*	*Category Def. IX*	*Category Def. VIII, IX*	*Category Def. VIII, IX*	*Category Def. VIII, IX*	*Category Def. VIII, IX*	*Category Def. VIII, IX*	*Category Def. IX*	*Category Def. VIII, IX*	*Category Def. IX*		*Category Def. IX*	*Category Def. VIII, IX*	*Category Def. IX*	*Category Def. X*						*Category Def. XI*
Audio Cassettes (music, educational, etc.)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Audio Visual Materials	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Audio Books Abridged - Tape/CD/DVD/MP3/MP4 Format *see Category Definitions underneath item numbers*	45.00%	7.50%	35.0 % or 7.5 %	35.0 % or 7.5 %	35.0 % or 7.5 %	35.0 % or 7.5 %	35.0 % or 7.5 %	7.50%	35.0 % or 7.5 %	7.50%	N/A	7.50%	35.0 % or 7.5 %	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
Audio Books Unabridged - Tape/CD/DVD/MP3/MP4 Format *see Category Definitions underneath items numbers*	45.00%	7.50%	35.0 % or 7.5 %	35.0 % or 7.5 %	35.0 % or 7.5 %	35.0 % or 7.5 %	35.0 % or 7.5 %	7.50%	35.0 % or 7.5 %	7.50%	N/A	7.50%	35.0 % or 7.5 %	7.50%	0.00%	N/A	N/A	N/A	N/A	$ 4.95 / unit
Books on DVD (Digital Files)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CD-ROM (fixed price only -- no online services)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CDs (music, audio, etc.) ***Music Only, Category Def. XVII***	25.00%	25.00%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$0.00
eBooks (non-subscription based)	0% (1)	0% (1)	0% (1)	0% (1)	0% (1)	0% (1)	0% (1)	0% (1)	0% (1)	0% (1)	N/A	0% (1)	0% (1)	0% (1)	0% (1)	N/A	N/A	N/A	N/A	N/A
Encyclopedias (Digital Versions)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Laser Disc	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maps, Globes, Atlases Charts	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Microcomputer Software (educational)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Microform (microfiche and microfilm)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Slides	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Video Tapes (feature film, educational, etc.)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
DVD's ***Category Def. XVI***	27.50%	27.50%	7.50%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$0.00
Video Games	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Sheet Music	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Musical Scores	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Other (please specify):																				
Playaway Audio (2)	15.00%	15.00%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$0.00
Playaway View (3)	5.00%	5.00%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$0.00

Additional Information

Material Category Definitions

VIII. University Press Trade Editions (A)(may include some spoken word audio materials)
This category would include any University Press Trade Editions, both adult and juvenile, and are subject to publisher reclassification. An example of a university press trade edition would be: The Oxford Companion to the Garden by Oxford University Press, ISBN: 0199551979.

IX. Text, Technical, Reference, Small Press, and/or Titles of Limited Demand (S, X, N, O, L, M, V, T, U, W, Letter O, 4, 5, 6, 7, 8)
Category of materials includes, but is not limited to, text, technical, reference, professional medical, small press, and some university press titles (excluding University Press Trade Editions). It includes titles purchased from publishers on a non-returnable basis, those publishers that extend little discount to Baker & Taylor, and publishers whose titles have limited sales volume based upon a semi-annual review. It includes individual titles which do not qualify for preferred stock status (based upon a quarterly review) and individual titles which qualify for preferred stock status, but have limited demand (calculated over a rolling 12 month period). Additionally, any publisher which is not in compliance with some of Baker & Taylor's purchasing requirements could be in this category. Materials in this category are both adult and juvenile and may be of any binding. Examples within this category would be: The Merck Index, ISBN: 0911910131, Strategies That Work, ISBN: 1571103104 and Beauty and the East, ISBN: 1566563879.

X. Imported English and Non-English Language Editions (F,K,1,3)
Titles produced and distributed outside of the domestic US. These titles may be of any binding type and represent various publishers.

XI. Enhanced Service Program Titles (Optional Service) (Y)
This category includes materials where Baker & Taylor receives no discount from the publisher, or prepayment is required by the publisher, or publishers which have restrictions on returns, or books of small or non-commercial publishers with limited sales volume based upon a semi-annual review. Any publisher which is not in compliance with Baker & Taylor's purchasing requirements would be in this category. Materials in this category may be of any binding. These titles will receive no discount and are subject to a service charge. An example within this category would be: Paths to Recovery, ISBN: 091003431I.

XII. Spoken Word Audio (H)
Materials designed for the general consumer, usually dealing with a subject matter having broad mass appeal. These titles can be either fiction or current non-fiction. An example of a spoken word audio edition would be: The Broker by John Grisham, ISBN: 0739316443.

XVI. DVD (9)
Materials designed for the general consumer, often having broad mass appeal. Producers of these materials provide the products with standard supplier discount and with no supplier restrictions.

XVII. Music CD (2)
Materials designed for the general consumer, often having broad mass appeal. Producers of these materials provide the products with standard supplier discount and with no supplier restrictions.

(1) Baker & Taylor provides e-content from a variety of e-content providers. Libraries purchasing a license for any e-book or e-audio edition must utilize a content provider hosted platform to allow delivery of and patron access to e-books.
This service is available for library-lending environments only. Gale or EBSCO e-content will require a platform provided by these firms, respectively. Baker & Taylor also offers a platform, Axis 360. Annual hosting fees for Axis 360 are listed below:

Public Library (based on Annual Circulation)		K-12 School or Academic Library (based on Full Time Enrollment)	
0-250,000	$250.00	0-15,000	$100.00
250,001-2,000,000	$1,000.00	15,001-30,000	$250.00
2,000,001 or More	$2,500.00	30,001 or More	$500.00

(2) These are single unit items, each holding a single audiobook which may be listened to by a single recipient at a time. In a library lending environment, these would be available for circulation to individual patrons.
(3) These are single unit items, each holding a single video/movie which may be viewed by a single recipient at a time. In a library lending environment, these would be available for circulation to individual patrons.

OPTIONAL ANCILLARY SERVICES

Service	Amount Charged	Description
Catalog Kits	$ 0.99 / unit	Spine label, pocket and pocket card, and card set
Cataloging & Processing (including shelf-ready books)	$ 1.19 / unit	Mylar jacket, spine label, book pocket, borrower's card, card set
Machine Readable Cataloging (MARC) Records	$ 0.25 / record	MARC available for any book title with an existing record in our cataloging database
Rebinding of Paperbacks	$ 5.25 / unit	Vinabind rebinding - cost of rebinding is in addition to the cost of the paperback book unit
Customized Reports	(1)	(1) Custom reporting is available beginning at $ 5.00 per report.
Bibliographic Records	$ 0.25 / record	MARC available for any book title with an existing record in our cataloging database
Security Tape	$ 0.50 / unit	3-M strips or standard CheckPoint devices; does not include RFID.
Barcode Label	$ 0.15 / label	Printed, sequential barcodes for book material
Other: Catalog Card Set	$ 0.75 / unit	Shelflist card, 2 main entry cards, title card
Other: Attached Mylar Jacket	$ 0.65 / unit	
Other: Loose Mylar Jacket	$ 0.60 / unit	
Other: Book Pocket and Card	$ 0.25 / unit	
Other: Spine Label	$ 0.15 / label	

Additional Information

Ownership Label	$0.15 / label	
Laminate Cover for Reinforcement of Paperback Cover	$ 1.95 / unit	
Spoken Word Audio Case with Cut Publisher Artwork	$ 3.99 / unit	
Digital Media Processing (DMP) for DVD/Blu-ray/Music CD	$ 1.69 / unit	Includes removal of security and shrinkwrap, digitally scanned artwork, and 2 embedded labels. Additional embedded labels available for $ 0.15 / label.
DCD-2 Theft Detection	$ 1.50 / label	

ADDITIONAL DISCOUNTS

Volume Price Breaks	Percentage Discount
$5,000.00 - $9,999.99	0.00%
$10,000.00 - $14,999.99	0.00%
$15,000.00 - $22,499.99	0.00%
$23,500.00 - $29,999.99	0.00%
$30,000.00 - $39,999.99	0.00%
$40,000.00 - $49,999.99	0.00%
$50,000.00 - $62,499.99	0.00%
$62,500.00 - $75,999.99	0.00%
$76,000.00 - and above	0.00%

Other Discounts	Percentage Discount
Electronic Access Ordering	N/A
Prepayment Plan Discount	N/A
Deposit Account Discount	N/A
Approval Plan Discount	N/A
Please Explain:	

Additional Information

MIDWEST TAPE
LIBRARIANS' MEDIA SOURCE

January 23, 2020

Charlene Adkins
Collection Development Manager
Support Services Department
Jacksonville Public Library
University Park Branch
3435 University Blvd. N.
Jacksonville, FL 32277

RE: Piggyback Approval Request

Dear Charlene:

It is our pleasure to continue serving the needs of the Jacksonville Public Library (JPL). We have valued our partnership for many years and are pleased to work with your Library. Midwest Tape, LLC is granting permission for the Jacksonville Public Library to piggyback on our contract with State of Florida contract 55101500-17-ACS for Books and Non-Print Library Materials and Related Ancillary Services as the terms and conditions set forth as referenced in Exhibit A. The term of this contract is June 2, 2017 through May 31, 2020 with the option of two (2), one (1) year renewals.

Please note that the Jacksonville Public Library receives a higher discount than offered on the State of Florida Contract due to past level of business and long-standing business partnership and will remain active at this level through the piggyback agreement as noted above.

DVDs – 30% off MSRP
Blu-Ray DVDs – 30% off MSRP
Music CDs – 25% off MSRP (With respect to Universal Music CDs, the discount is 10% off of the studio's list price.)
Audiobooks – This media is offered at retail price. All audiobooks are repackaged (includes the product, the sleeves and the artwork) in our library-friendly, highly durable SoundSafe™ case.

The following summarizes the cost of our processing and cataloging services, which are tailored to the Jacksonville Public Library's current specifications:

DVD

Single Disc:	$3.00
Double Disc:	$3.50 Flat Rate
Multiple Disc:	$9.00 Per 4/6 case

Blu-Ray DVD

Single Disc:	$3.00 Flat Rate
Double Disc:	$3.50 Flat Rate
Multiple Disc:	$9.00 Per 4/6 case

Music CD –

Single Disc:	$4.40 Flat Rate
Double Disc:	$5.90 Flat Rate
Multi-Disc:	$2.80 per disc

Audio Book
Flat Rate - $3.00

MIDWEST TAPE
LIBRARIANS MEDIA SOURCE

Cataloging Services:

DVDs – are the only format required by the Library to receive Customized OCLC MARC Records at the cost of $4.95 per record.

Record tags are encoded with barcode information at the cost of $.25 per tag for each format.

Should the library expand their cataloging requirements to other formats during the term of the piggyback agreement, Midwest Tape retains the right to provide a price quote based on the specific requirements for that format and provide that service

Should you have any further questions, please do not hesitate to contact me or the following staff members at 800-875-2785 or by email:

Eric Timm (etimm@midwesttapes.com) – Account Executive
Rebecca Dick (rdick@midwesttapes.com) – Processing/Cataloging Coordinator
Janet Timm (jtimm@midwesttapes.com) – Bid Specialist

Sincerely,

Sue Bascuk, Vice President of Business Development
sbascuk@midwesttapes.com
800-875-2785

Cc: Eric Timm, Rebecca Dick, Janet Timm

FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
dms state purchasing
We serve those who serve Florida

Alternate Contract Source (ACS)
No. 55101500-ACS-17-1
For
Books and Non-Print Library Materials, and Related Ancillary Services

This Contract is between the State of Florida, Department of Management Services (Department), an agency of the State of Florida and Midwest Tape, LLC (Contractor), collectively referred to herein as the "Parties."

The Department is authorized by subsection 287.042(16), Florida Statutes, "to evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, if it is determined in writing to be cost-effective and in the best interest of the state, to enter into a written agreement authorizing an agency to make purchases under such contract."

The State of New York competitively procured Books and Non-Print Library Materials and Related Ancillary Services, and signed contract number 22868 with the Contractor, attached hereto as Exhibit C (Master Agreement). The Master Agreement is effective June 1, 2015, and terminates on May 31, 2020 Renewal options are available.

The Department evaluated the Master Agreement, and hereby acknowledges that use of the Master Agreement as an alternative source contract is cost-effective and in the best interest of the State.

Accordingly, the Parties agree as follows:

1. Term and Effective Date.

The initial term of this Contract will become effective on June 1, 2017 or on the date the document is signed by all Parties, whichever is later, consistent with the Master Agreement, unless terminated earlier in accordance with the General Contract Conditions.

2. Renewal.

Upon agreement of the Parties, this ACS may be renewed. Renewals must be in writing and are subject to the same terms, conditions, and modifications set forth in this ACS.

3. Modifications or Additions to Master Agreement.

As used in this document, "Contract" and "ACS" (whether or not capitalized) shall, unless the context requires otherwise, mean this document and all incorporated Exhibits, which set forth the entire understanding of the Parties and supersedes all prior agreements. All modifications to this Contract must be in writing and signed by all Parties. Amendments to the Master Agreement will be automatically incorporated into this ACS.

All Exhibits attached or listed below are incorporated in their entirety into, and shall form part of this Contract. Exhibits A and B modify or supplement the terms and conditions of the Master Agreement. The parties agree that these modifications or additions shall apply to actions between the Contractor and the State of Florida (including participating Florida agencies and eligible users). In the event of a conflict, the following order of precedence shall apply:

a) This ACS and amendments, with the latest issued having priority.
b) Exhibit A: General Contract Conditions (Florida).
c) Exhibit B: State of Florida Price Sheet or Special Contract Conditions (Florida).
d) Exhibit C: Master Agreement.
e) Exhibit D: Purchase Orders

Where the laws and regulations of a state other than the State of Florida are cited or referenced in the Master Agreement, such citation or reference shall be replaced by the comparable Florida law or regulation. .

4. Purchase Orders.

Upon execution of this Contract, Customers, as defined in Section 1.1 of the General Contract Conditions (Exhibit A), may purchase products and services under this ACS using this State of Florida ACS number 55101500-ACS-17-1 Customers acknowledge and agree to be bound by the terms and conditions of the Master Agreement except as otherwise specified in this Contract and its Exhibits.

5. Primary Contacts.

Department's Contract Manager:
Jennifer Hyatt
Division of State Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399-0950
Telephone: (850) 488-8366
Email: jennifer.hyatt@dms.myflorida.com

Contractor's Contract Manager:
Jeff Jankowski, Vice President, Midwest Tape, LLC; 800-875-2785;
jjankowski@midwesttape.com
1417 Timberwolf Drive, Holland, Ohio 43528
Janet Timm, Bid Specialist (Contract Assistant to Mr. Jankowski), Midwest Tape, LLC;
800-875-2785; jtimm@midwesttape.com
1417 Timberwolf Drive, Holland, Ohio 43528

6. Warranty of Authority

Each person signing this document warrants that he or she is duly authorized to do so and to bind the respective party.

7. Entire Agreement of the Parties

This document and the attached exhibits constitute the ACS and the entire understanding of the parties. Any amendments hereto must be in writing and signed by the parties.

IN WITNESS THEREOF, the Parties hereto have caused this agreement, which includes the attached and incorporated Exhibits, to be executed by their undersigned officials as duly authorized. This agreement is not valid and binding until signed and dated by the Parties.

CONTRACTOR	STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES
Jeff Jankowski, Vice President	Rosalyn Ingram, State Purchasing Director
August 29, 2017 Date	Date

5. Primary Contacts.

Department's Contract Manager:
Jennifer Hyatt
Division of State Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399-0950
Telephone: (850) 488-8366
Email: jennifer.hyatt@dms.myflorida.com

Contractor's Contract Manager:
Jeff Jankowski, Vice President, Midwest Tape, LLC; 800-875-2785;
jjankowski@midwesttape.com
1417 Timberwolf Drive, Holland, Ohio 43528
Janet Timm, Bid Specialist (Contract Assistant to Mr. Jankowski), Midwest Tape, LLC;
800-875-2785; jtimm@midwesttape.com
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CONTRACTOR	STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES
Jeff Jankowski, Vice President	Rosalyn Ingram, State Purchasing Director
August 29, 2017 Date	Date

GENERAL CONTRACT CONDITIONS

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These General Contract Conditions supersede and replace in their entirety all General Contract Conditions, Form PUR 1000, which is incorporated by reference in Rule 60A-1.002, Florida Administrative Code (F.A.C.)

SECTION 1. DEFINITIONS.

The following definition applies in addition to the definitions in Chapter 287, Florida Statutes, (F.S.) and Rule Chapter 60A-1, F.A.C.:

1.1 Customer.
The agency or eligible user that purchases commodities or contractual services pursuant to the Contract.

SECTION 2. CONTRACT TERM AND TERMINATION.

2.1 Initial Term.
The initial term will begin on the date set forth in the Contract or on the date the Contract is signed by all Parties, whichever is later.

2.2 Renewal.
Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract, and in accordance with section 287.057(13), F.S., and Rule 60A-1.048, F.A.C.

2.3 Suspension of Work and Termination.

2.3.1 Suspension of Work.
The Department may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the State of Florida to do so. A Customer may, at its sole discretion, suspend a resulting contract or purchase order, at any time, when in the best interest of the Customer to do so. The Department or Customer will provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor must comply with the notice and will cease the activities associated with any resulting contract or purchase order. Within 90 days, or any longer period agreed to by the Contractor, the Department or Customer will either (1) issue a notice authorizing resumption of work, at which time activity will resume, or (2) terminate the Contract or a resulting contract or purchase order. Suspension of work will not entitle the Contractor to any additional compensation.

2.3.2 Termination for Convenience.
The Contract may be terminated by the Department in whole or in part at any time, in the best interest of the State of Florida. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

2.3.3 Termination for Cause.
If the Department determines that the performance of the Contractor is not satisfactory, the Department may, at its sole discretion, (a) immediately terminate the Contract, (b) notify the Contractor of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Contract will terminate at the end of such time, or (c) take other action deemed appropriate by the Department.

SECTION 3. PAYMENT AND FEES.

3.1 Pricing.
The Contractor will not exceed the pricing set forth in the Contract.

3.2 Price Decreases.
The following price decrease terms will apply to the Contract:

(a) Quantity Discounts. Contractor may offer additional discounts for one-time delivery of large single orders.

(b) Preferred Pricing. Consistent with the goals of section 216.0113, F.S., Contractor acknowledges and recognizes that the Department wants to take advantage of any improvements in pricing over the course of the Contract period. To that end, the pricing indicated in this Contract is a maximum guarantee under the terms of this clause. Contractor's pricing will not exceed, on an aggregate basis, the pricing offered under comparable contracts for public entities. Comparable contracts are those which are similar in size, scope and terms. The Contractor shall submit to the Department a completed Preferred Pricing affidavit form annually.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor must submit documentation identifying the proposed (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

3.3 Payment Invoicing.
The Contractor will be paid upon submission of properly certified invoices to the Customer after delivery and acceptance of commodities or contractual services is confirmed by the Customer. Invoices must contain detail sufficient for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

3.4 Purchase Order.
A Customer may use purchase orders to buy commodities or contractual services pursuant to the Contract. The Contractor must provide commodities or contractual services pursuant to purchase orders. The purchase order period of performance survives the expiration of the Contract. The duration of purchase orders must not exceed the expiration of the Contract by more than 12 months.

3.5 Travel.
Travel expenses are not reimbursable unless specifically authorized by the Customer in writing, and may be reimbursed only in accordance with section 112.061, F.S.

3.6 Annual Appropriation.
Pursuant to section 287.0582, F.S., if the Contract binds the State of Florida or an agency for the purchase of services or tangible personal property for a period in excess of one fiscal year, the State of Florida's performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Legislature.

3.7 Transaction Fees.
The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), Florida Statutes. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, Florida Administrative Code, or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees, when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction

Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

3.8 Taxes.
The State of Florida is not required to pay any taxes, including customs and tariffs, on commodities or contractual services purchased under the Contract.

3.9 Return of Funds.
Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor by the Department or Customer. The Contractor must return any overpayment within 40 calendar days after either discovery by the Contractor, its independent auditor, or notification by the Department or Customer of the overpayment.

SECTION 4. CONTRACT MANAGEMENT.

4.1 Composition and Priority.
The Contractor agrees to provide commodities or contractual services to the Customer within the manner and at the location specified in the Contract and any attachments to the Contract. Additionally, the terms of the Contract supersede the terms of any and all prior or contemporaneous agreements between the Parties.

4.2 Notices.
All notices required under the Contract must be delivered to the designated Contract Manager by certified mail, return receipt requested, by reputable air courier service, email, or by personal delivery, or as otherwise identified by the Department.

4.3 Department's Contract Manager.
The Department's Contract Manager, is primarily responsible for the Department's oversight of the Contract. In the event that the Department changes the Contract Manager, the Department will notify the Contractor. Such a change does not require an amendment to the Contract.

4.4 Contractor's Contract Manager.
The Contractor's Contract Manager is primarily responsible for the Contractor's oversight of the Contract performance. In the event that the Contractor changes its Contract Manager, the Contractor will notify the Department. Such a change does not require an amendment to the Contract.

4.5 Diversity Reporting.
The State of Florida supports its diverse business community by creating opportunities for woman-, veteran-, and minority-owned small business enterprises to participate in procurements and contracts. The Department encourages supplier diversity through certification of woman-, veteran-, and minority-owned small business enterprises, and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Diversity (OSD) at osdinfo@dms.myflorida.com.

Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and Federal Employer Identification Number of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each Customer purchasing under the Contract.

4.6 RESPECT.

Subject to the agency determination provided for in Section 413.036, F.S., the following statement applies:

> IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about the designated nonprofit agency and the commodities or contractual services it offers is available at http://www.respectofflorida.org.

4.7 PRIDE.

Subject to the agency determination provided for in Sections 946.515 and 287.042(1), F.S., the following statement applies:

> IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at http://www.pride-enterprises.org.

SECTION 5. COMPLIANCE WITH LAWS.

5.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with Section 274A of the Immigration and Nationality Act, the Americans with

Disabilities Act, Health Insurance Portability and Accountability Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status.

Pursuant to subsection 287.058(1), F.S., the provisions of subparagraphs 287.058(1)(a)-(c), F.S., are hereby incorporated by reference, to the extent applicable.

5.2 Governing Law and Venue.
The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives any and all privileges and rights relating to venue it may have under Chapter 47, F.S., and any and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those based on convenience. The Contractor hereby submits to venue in the county chosen by the Department.

5.3 Department of State Registration.
The Contractor and any subcontractors that assert corporate status must provide the Department with conclusive evidence, per section 607.0127, F.S., of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity and maintain such status or authorization through the life of the Contract and any resulting contract or purchase order.

5.4 Convicted and Discriminatory Vendor Lists.
In accordance with sections 287.133 and 287.134, F.S., an entity or affiliate who is on the Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors or consultants have been placed on the Convicted Vendor List or the Discriminatory Vendor List during the term of the Contract.

5.5 Contractor Certification.
If the Contract exceeds $1,000,000.00 in total, not including renewal years, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List created pursuant to sections 215.473, F.S. and 215.4725 F.S, respectively. Pursuant to section 287.135(5), F.S., and 287.135(3), F.S., Contractor agrees the Department may immediately terminate the Contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel during the term of the Contract.

5.6 Cooperation with Inspector General.
Pursuant to subsection 20.055(5), F.S., Contractor, and any subcontractor to the Contractor, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any

type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State (available at: http://dos.myflorida.com/library-archives/records-management/general-records-schedules/), whichever is longer. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include, but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

5.7 Inspection.
Section 215.422, F.S., provides that agencies have five working days to inspect and approve commodities or contractual services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense.

SECTION 6. MISCELLANEOUS.

6.1 Notice of Legal Actions.
The Contractor must notify the Department of any legal actions filed against it for a violation of any laws, rules, codes, ordinances or licensing requirements within 30 days of the action being filed. The Contractor must notify the Department of any legal actions filed against it for a breach of a contract of similar size and scope to this Contract within 30 days of the action being filed. Failure to notify the Department of a legal action within 30 days of the action will be grounds for termination for cause of the Contract.

6.2 Subcontractors.
The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all subcontracted work. The Department supports diversity in its procurements and contracts, and requests that Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The Contractor may contact the OSD at osdhelp@dms.myflorida.com for information on certified small business enterprises available for subcontracting opportunities.

6.3 Assignment.
The Contractor will not sell, assign or transfer any of its rights, duties or obligations under the Contract without the prior written consent of the Department. In the event of any assignment, the Contractor remains secondarily liable for performance of the Contract. The Department may assign the Contract to another state agency.

6.4 Independent Contractor.
The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the Department and are not entitled to the benefits of State of

Florida employees. The Department will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under the Contract.

6.5 Risk of Loss.

Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer or the Department rejects a commodity, Contractor will remove the commodity from the premises within 10 days after notification of rejection, and the risk of loss will remain with the Contractor. Commodities not removed by the Contractor within 10 days will be deemed abandoned by the Contractor and the Customer or the Department will have the right to dispose of it as its own property. Contractor will reimburse the Customer or the Department for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

6.6 Safety Standards.

All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State of Florida inspector. Acceptability customarily requires, at a minimum, an identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories, and National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished must meet all applicable requirements of the Occupational Safety and Health Act and State of Florida and federal requirements relating to clean air and water.

6.7 Ombudsman.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

6.8 Time is of the Essence.

Time is of the essence regarding each and every obligation of the Contractor. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

6.9 Waiver.

The delay or failure by the Department or Customer to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

6.10 Modification and Severability.

The Contract may only be modified by written agreement between the Department and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

6.11 Shipping.

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in Florida and shall include inside delivery inside doors of Authorized User's receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method. There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc.

SECTION 7. WORKERS' COMPENSATION AND GENERAL LIABILITY INSURANCE, AND INDEMNIFICATION

7.1 Workers' Compensation Insurance.

To the extent required by law, the Contractor must be self-insured against, or must secure and maintain during the life of the contract, Worker's Compensation Insurance for all its employees connected with the work of this project, and in case any work is subcontracted, the Contractor must require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees engaged in work under the resulting contract are covered by the Contractor's insurance program. Self-insurance or insurance coverage must comply with the Florida Worker's Compensation law. In the event hazardous work is being performed by the Contractor under the resulting contract or purchase order and any class of employees performing the hazardous work is not protected under Worker's Compensation statutes, the Contractor must provide, and cause each subcontractor to provide adequate insurance satisfactory to the Department for the protection of employees not otherwise protected.

7.2 General Liability Insurance

The Contractor must secure and maintain Commercial General Liability Insurance including bodily injury, property damage, product-liability, personal & advertising injury and completed operations. This insurance must provide coverage for all claims that may arise from the services, and operations completed under the Contract and any resulting contract or purchase order, whether such services or operations are by the Contractor or anyone directly or indirectly employed by them. Such insurance must include a Hold Harmless Agreement in favor of the State of Florida and also include the State of Florida as an Additional Named Insured for the entire length of the Contract and any resulting contract or purchase order. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the Contract and any resulting contract or purchase order.

All insurance policies must be with insurers licensed or eligible to transact business in the State of Florida. The Contractor's current certificate of insurance must contain a provision that the insurance must not be canceled for any reason except after thirty (30) days written notice to the Department's Contract Manager.

The Contractors must submit insurance certificates evidencing such insurance coverage prior to execution of a contract with the Department.

The Contractor must require its insurance carrier to add the Department to the insurance policies as an additional insured, as provided below:

Florida Department of Management Services
c/o Division of State Purchasing
4050 Esplanade Way, Suite 36060
Tallahassee, Florida 32399-0950

7.3 Indemnification.

The Contractor agrees to indemnify, defend, and hold the Department, Customer, the State of Florida, its officers, employees and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right or out of any acts, actions, breaches, neglect or omissions of the Contractor, its employees, agents, subcontractors, assignees or delegates related to the Contract, as well as for any determination arising out of or related to the Contract that the Contractor or Contractor's employees, agents, subcontractors, assignees or delegates are not independent contractors in relation to the Department. The Contract does not constitute a waiver of sovereign immunity or consent by the Department or the State of Florida or its subdivisions to suit by third parties.

Without limiting this indemnification, the Department or Customer may provide the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense.

SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT AND INTELLECTUAL PROPERTY.

8.1 Public Records.

The Department may unilaterally cancel this Contract for refusal by the Contractor to comply with this section by not allowing public access to all documents, papers, letters or other material made or received by the Contractor in conjunction with the Contract, unless the records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1), F.S.

Solely for the purposes of this section the contract manager is the agency custodian of public records, unless another is designated per (e), below.

If, under a resulting contract or purchase order, the Contractor is providing services and is acting on behalf of a public agency, as provided by section 119.0701, Florida Statutes. The Contractor shall:

(a) Keep and maintain public records required by the public agency to perform the service;

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within reasonable time and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following the completion of the contract if the contractor does not transfer the records to the public agency;

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency; and

(e) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.**

8.2 Protection of Trade Secrets or Confidential Information.

If the Contractor considers any portion of materials made or received in the course of performing the Contract ("contract-related materials") to be trade secret under section 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as "confidential" when submitted to the Department.

If the Department receives a public records request for contract-related materials designated by the Contractor as "confidential," the Department will provide only the portions of the contract-related materials not designated as "confidential." If the requester asserts a right to examine contract-related materials designated as "confidential," the Department will notify the Contractor. The Contractor will be responsible for responding

to and resolving all claims for access to contract-related materials it has designated "confidential."

If the Department is served with a request for discovery of contract-related materials designated "confidential," the Department will promptly notify the Contractor about the request. The Contractor will be responsible for filing the appropriate motion or objection in response to the request for discovery. The Department will provide materials designated "confidential" only if the Contractor fails to take appropriate action, within timeframes established by statute and court rule, to protect the materials designated as "confidential" from disclosure.

The Contractor will protect, defend, and indemnify the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of contract-related materials as "confidential."

8.3 Document Management.

The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers and documents that were made in relation to this Contract. Contractor must retain all documents related to the Contract for five years after expiration of the Contract, or, if longer, the period required by the General Records Schedules maintained by the Florida Department of State available at: http://dos.myflorida.com/library-archives/records-management/general-records-schedules/.

8.4 Intellectual Property.

Unless specifically addressed in the Contract, intellectual property rights to all property created or otherwise developed by the Contractor for the Department will be owned by the State of Florida through the Department at the completion of the Contract.

Any inventions or discoveries developed in the course of or as a result of services performed under the Contract which are patentable pursuant to 35 U.S.C. §101 are the sole property of the state of Florida. Contractor must inform the Department of any inventions or discoveries developed or made in connection with the Contract and will be referred to the Florida Department of State for a determination on whether patent protection will be sought for the invention or discovery. The State of Florida will be the sole owner of any and all patents resulting from any invention or discovery made in connection with this contract.

Contractor must notify the Department of State of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed in connection with the Contract are the sole property of the State of Florida.

SECTION 9. DATA SECURITY AND SERVICES.

9.1 Duty to Provide Secure Data.

The Contractor will maintain the security of State of Florida Data including, but not limited to, a secure area around any display of such Data or Data that is otherwise visible. The

Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information.

9.2 Warranty of Security.

Unless otherwise agreed in writing, the Contractor and its subcontractors will not perform any of the services from outside of the United States, and the Contractor will not allow any State of Florida Data to be sent by any medium, transmitted or accessed outside of the United States.

Notwithstanding any provision of this Contract to the contrary, the Contractor must notify the Department as soon as possible, in accordance with the requirements of section 501.171, F.S., and in all events within one (1) business day in the event Contractor discovers any Data is breached, any unauthorized access of Data occurs (even by persons or companies with authorized access for other purposes), any unauthorized transmission of Data or any credible allegation or suspicion of a material violation of the above. This notification is required whether the event affects one agency/customer or the entire population. The notification must be clear and conspicuous and include a description of the following:

(a) The incident in general terms.
(b) The type of information that was subject to the unauthorized access and acquisition.
(c) The type and number of entities who were, or potentially have been affected by the breach.
(d) The actions taken by the Contractor to protect the Data from further unauthorized access. However, the description of those actions in the written notice may be general so as not to further increase the risk or severity of the breach.

9.3 Remedial Measures.

Upon becoming aware of an alleged security breach, Contractor's Contract Manager must set up a conference call with the Department's Contract Manager. The conference call invitation must contain a brief description of the nature of the event. When possible, a 30 minute notice will be given to allow Department personnel to be available for the call. If the designated time is not practical for the Department, an alternate time for the call will be scheduled. All available information must be shared on the call. The Contractor must answer all questions based on the information known at that time and answer additional questions as additional information becomes known. The Contractor must provide the Department with final documentation of the incident including all actions that took place. If the Contractor becomes aware of a security breach or security incident outside of normal business hours, the Contractor must notify the Department's Contract Manager and in all events, within one business day.

9.4 Indemnification (Breach of Warranty of Security).

The Contractor agrees to defend, indemnify and hold harmless the Department, Customer, the State of Florida, its officers, directors and employees for any claims, suits or proceedings related to a breach of the Warranty of Security. The Contractor will include credit monitoring services at its own cost for those individuals affected or potentially affected by a breach of this warranty for a two year period of time following the breach.

9.5 Annual Certification.

The Contractor is required to submit an annual certification demonstrating compliance with the Warranty of Security to the Department by December 31 of each Contract year.

SECTION 10. GRATUITIES AND LOBBYING.

10.1 Gratuities.

The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

10.2 Lobbying.

In accordance with sections 11.062 and 216.347, F.S., Contract funds are not for the purpose of lobbying the Legislature, the judicial branch, or the Department. Pursuant to subsection 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract, after the Contract execution and during the Contract's term.

SECTION 11. CONTRACT MONITORING.

11.1 Performance Standards.

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Statement of Work and attachments to the Contract. The Department and the Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof. Coordination must be maintained by the Contractor with representatives of the Customer, the Department, or of other agencies involved in the Contract on behalf of the Department.

11.2 Performance Deficiency.

The Department or Customer may, in its sole discretion, notify the Contractor of the deficiency to be corrected, which correction must be made within a time-frame specified by the Department or Customer. The Contractor must provide the Department or Customer with a corrective action plan describing how the Contractor will address all issues of contract non-performance, unacceptable performance, and failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance.

11.3 Financial Consequences of Non-Performance.

If the corrective action plan is unacceptable to the Department or Customer, or fails to remedy the performance deficiencies, the Contractor will be assessed a non-performance retainage equivalent to 10% of the total invoice amount or as specified in the Contract. The retainage will be applied to the invoice for the then-current billing period. The retainage will be withheld until the Contractor resolves the deficiency. If the deficiency is subsequently resolved, the Contractor may invoice the Customer for the retained amount during the next billing period. If the Contractor is unable to resolve the deficiency, the funds retained will be forfeited.

11.4 Liquidated Damages.

The Contractor will promptly notify the Department or Customer upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department or Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department or Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department or Customer and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department or Customer's delay.

The Contractor acknowledges that untimely performance or other material noncompliance will damage the Department or Customer, but by their nature such damages may be difficult to ascertain. Accordingly, any liquidated damages provisions stated in the solicitation will apply to this Contract. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

11.5 Force Majeure, Notice of Delay, and No Damages for Delay.

The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor will notify the Department or Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within 10 days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five days after the date the Contractor first had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Department or Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless the Department or Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State of Florida or to Customers, in which case the Department or Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the

delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

SECTION 12. CONTRACT AUDITS.

12.1 Performance or Compliance Audits.

The Department may conduct, or cause to have conducted, either or both performance and compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractor's data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners or agents of the Contractor, pertaining to this Contract, may be inspected by the Department upon 15 days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The State of Florida's Chief Financial Officer and the Office of the Auditor General also have authority to perform audits and inspections.

12.2 Payment Audit.

Records of costs incurred under terms of the Contract will be maintained. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Department, State of Florida's Chief Financial Officer or the Office of the Auditor General for audit.

SECTION 13. BACKGROUND SCREENING AND SECURITY.

13.1 Background Check.

The Department may require the Contractor and its employees, agents, representatives and subcontractors to provide fingerprints and be subject to such background checks as directed by the Department. The cost of the background checks will be borne by the Contractor. The Department may require the Contractor to exclude the Contractor's employees, agents, representatives or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three calendar days any arrest for any Disqualifying Offense. The Contractor must notify the Contract Manager within 24 hours of all details concerning any reported arrest. The Contractor will ensure that all background screening will be refreshed upon the request of the Department for each person during the term of the Contract.

13.2 E-Verify.

In accordance with Executive Order 11-116, the Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all

new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five days of notice of Contract award, and provide the Contract Manager a copy of its MOU within five days of Contract execution. The link to E-Verify is provided below. http://www.uscis.gov/e-verify. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five days to the Contract Manager identifying the new hire with its E-Verify case number.

13.3 Disqualifying Offenses.

If at any time it is determined that a person has a criminal misdemeanor or felony record regardless of adjudication (e.g., adjudication withheld, a plea of guilty or nolo contendere, or a guilty verdict) within the last six years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to State of Florida Data or directly performing services under the Contract. The disqualifying offenses are as follows:

(a) Computer related or information technology crimes
(b) Fraudulent practices, false pretenses and frauds, and credit card crimes
(c) Forgery and counterfeiting
(d) Violations involving checks and drafts
(e) Misuse of medical or personnel records
(f) Felony theft

13.4 Communications and Confidentiality.

The Contractor agrees that it will make no statements, press releases, or publicity releases concerning the Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, or any particulars thereof, during the period of the Contract, without first notifying the Department's Contract Manager or the Department designated contact person and securing prior written consent. The Contractor must maintain confidentiality of all confidential data, files, and records related to the services and commodities provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of the Department security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

Client#: 1400052 MIDWETAP1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 01/22/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

APPROVED By WVerdejo at 12:31 pm, Jan 23, 2020

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
USI Insurance Services, LLC CL
One SeaGate, Suite 1800
Toledo, OH 43604
419 243-1191

CONTACT NAME: Jennifer Lake
PHONE (A/C, No, Ext): 567-803-4414 FAX (A/C, No):
E-MAIL ADDRESS: jennifer.lake@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Continental Insurance Company	35289
INSURER B : National Fire Insurance Co. of Hartford	20478
INSURER C : Midwest Employers Casualty Company	23612
INSURER D : Beazley Insurance Company, Inc.	37540
INSURER E : Continental Casualty Company	20443
INSURER F :	

INSURED
Midwest Tape, LLC
P.O. Box 820
1417 Timberwolf Drive
Holland, OH 43528-0820

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR OH Stop Gap GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X	X	6071847392 6071847392	05/09/2019	05/09/2020	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $500,000 $15,000 $1,000,000 $2,000,000 $2,000,000 $
E	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY	X	X	C6071847408	05/09/2019	05/09/2020	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000 $ $ $ $
A	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED X RETENTION $0	X	X	CUE6071847425	05/09/2019	05/09/2020	EACH OCCURRENCE AGGREGATE	$5,000,000 $5,000,000 $
B C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	6971747411 EWC009148 (XS Ded $400k)	05/09/2019 05/09/2019	05/09/2020 5/09/2020	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $1,000,000 $1,000,000 $1,000,000
D	Cyber Breach			W1333B190701	05/09/2019	05/09/2020	$3,000,000 $3,000,000 $50,000 Ded.	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

PROJECT NAME: JPL-Books & Non-Print Library Materials and Ancillary Services

The City of Jacksonville its members, officials, officers, employees and agents are named as Additional Insureds with regard to General Liability and Auto Liability. Coverages are Primary & Non-contributory. A waiver of subrogation in favor of The City of Jacksonville its members, officials, officers, employees and (See Attached Descriptions)

CERTIFICATE HOLDER

City of Jacksonville
177 W. Duval Street Ste. 335
Jacksonville, FL 32202

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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DESCRIPTIONS (Continued from Page 1)

agents applies to General Liability, Auto Liability and Workers Compensation. 30 Day notice of cancellation to The City of Jacksonville applies to all policies.

INDEMNIFICATION

APPLICANT shall hold harmless, indemnify, and defend the City of Jacksonville and City's members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Contract, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this Contract contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the Contract; and

3. Intellectual Property Liability, to the extent this Contract contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services as contemplated in this Contract, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to Buyer, so that the Service or product is non-infringing.

If an Indemnifying Party exercises its rights under this Contract, the Indemnifying Party will (1) provide reasonable notice to the Indemnified Parties of the applicable claim or liability, and (2) allow Indemnified Parties, at their own expense, to participate in the litigation of such claim or liability to protect their interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to the Contract or otherwise. Such terms of indemnity shall survive the expiration or termination of the Contract.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

Additional Insurance Provisions

A. Additional Insured: All insurance except Worker's Compensation shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.

B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.

C. Applicant's Insurance Primary. The insurance provided by the Applicant shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.

D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Contract shall remain the sole and exclusive responsibility of the named insured Applicant. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Contract.

E. Applicant's Insurance Additional Remedy. Compliance with the insurance requirements of this Contract shall not limit the liability of the Applicant or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise.

F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Applicant shall relieve Applicant of Applicant's full responsibility to provide insurance as required under this Contract.

G. Certificates of Insurance. Applicant shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.

H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.

I. Survival. Anything to the contrary notwithstanding, the liabilities of the Applicant under this Contract shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

Acknowledgement and Acceptance of Indemnification and Insurance Requirements

Applicant/Authorized Representative: _____ 1-27-2020

Signature **Date**

Jeff Jankowski, Vice President

Exhibit B - Midwest Tapes Price Sheet

LOT 1 - IN-PRINT PUBLICATIONS

	Item 1	Item 2	Item 3	Item 4	Item 5	Item 6	Item 7	Item 8	Item 9	Item 10	Item 11	Item 12	Item 13	Item 14	Item 15	Item 16	Item 17 a.	Item 17 b.	Item 17 c.	Item 18
	Trade	Non-Trade	Scientific/ Medical	Technical	Law	Business/ Economics/ Financial	Social Science/ Humanities	Governmental	Text Books	Reference/ Encyclopedia	Braille	Handbooks	University Press Publications	Society or Association Publications	Foreign Publications	Out of Print Books	Other:_____	Other:_____	Other:_____	Net Handling Charge
A. CLOTH BINDING																				
Discount per copy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Volume Pricing-Price Breaks for Single Title:																				
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
B. LIBRARY BINDING																				
Discount per copy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Volume Pricing-Price Breaks for Single Title:																				
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C. PAPERBACKS, QUALITY																				
Discount per copy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Volume Pricing-Price Breaks for Single Title:																				
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
D. PAPERBACKS, MASS MARKET																				
Discount per copy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Volume Pricing-Price Breaks for Single Title:																				
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
E. PREBOUND HARDBACKS																				
Discount per copy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Volume Pricing-Price Breaks for Single Title:																				
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
_____ copies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Additional Information

Midwest Tape, LLC does not provide print materials to libraries. We provide only audio visual materials. Please see Lot 2 Tab.

	Item 1	Item 2	Item 3	Item 4	Item 5	Item 6	Item 7	Item 8	Item 9	Item 10	Item 11	Item 12	Item 13	Item 14	Item 15	Item 16	Item 17 a.	Item 17 b.	Item 17 c.	Item 18
	Trade	Non-Trade	Scientific/ Medical	Technical	Law	Business/ Economics/ Financial	Social Science/ Humanities	Governmental	Text Books	Reference/ Encyclopedia	Braille	Handbooks	University Press Publications	Society or Association Publications	Foreign Publications	Out of Print Books	Other:Universal Music	Other:_____	Other:_____	Net Handling Charge
DISCOUNT FOR SINGLE UNIT																				
Audio Cassettes (music, educational, etc.)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Audio Visual Materials	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Audio Books Abridged - Tape/CD/DVD/MP3/MP4 Format	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	N/A	N/A	N/A	N/A	N/A	N/A	0.00% - 20.00%	N/A	N/A	N/A	N/A	$0.00
Audio Books Unabridged - Tape/CD/DVD/MP3/MP4 Format	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	0.00% - 20.00%	N/A	N/A	N/A	N/A	N/A	N/A	0.00% - 20.00%	N/A	N/A	N/A	N/A	$0.00
Books on DVD (Digital Files)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CD-ROM (fixed price only – no online services)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CDs (music, audio, etc.)	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	N/A	0.00%	N/A	N/A	$0.00
eBooks (non-subscription based)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Encyclopedias (Digital Versions)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Laser Disc	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maps, Globes, Atlases Charts	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Microcomputer Software (educational)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Microform (microfiche and microfilm)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Slides	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Video Tapes (feature film, educational, etc.)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
DVD's	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	20.00%	N/A	N/A	N/A	N/A	20.00%	N/A	20.00%	N/A	N/A	N/A	N/A	$0.00
Video Games	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Sheet Music	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Musical Scores	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Other (please specify):																				
Music - Universal Studios - Sold at List Price.																				

Additional Information

Midwest Tape, LLC provides Audio Books (Books on Compact Disc -Unabridged and Abridged versions) at Retail Price. All Audio Books are repackaged into the SoundSafe Case at no additional charge to the library.
Music - Universal Studios - sold at List Price.
A 20% discount is applicable to Audio Books on MP3 (Playaways) only.

OPTIONAL ANCILLARY SERVICES

Service	Amount Charged	Description
Catalog Kits	N/A	
Cataloging & Processing (including shelf-ready books)	$2.65*	*This price represents an AVERAGE processing cost only. Cataloging services are a separate cost. Processing is charged based on the needs of each library. Our staff can be contacted at 800-875-2785 to provide a no-obligation quote at any time.
Machine Readable Cataloging (MARC) Records	$1.20	Full Level OCLC MARC records are optional for our libraries and charged at the rate of $1.20 per title (not per unit). Barcode Linking services (949 tags) can be provided to libraries requiring barcode information linked to their records. These are provided at the cost of $0.25 per tag.
Rebinding of Paperbacks	N/A	
Customized Reports	$0.00	
Bibliographic Records	$0.00	Midwest Tape assumes Bibliographic Records to be vendor records offered to assist libraries to order electronically through their ILS. Midwest Tape offers free vendor level records to all customers via our website.
Security Tape	up to $1.50	For audiovisual materials, Midwest Tape can provide a library's standard security labels to be applied to their DVDs, Music CDs and Audiobooks. Prices are dependent on the library's security device requirements. Application of devices range from $0.40 - $1.50, depending on the library's security requirements. This is an additional charge to the noted average rate in section 'Cataloging & Processing' above.
Barcode Label	$0.00	Through our VIP digital processing services, barcode label integration is provided within the average price noted above in Cataloging & Processing Shelf Ready service. Most libraries require a barcode label to be included in our processing services along with other labels. We request libraries to make contact with our staff at 800-875-2785 to discuss all of our processing services and the associated costs.
Other:		
Other:		
Other:		
Other:		
Other:		

Additional Information

Set up of discounts: We respectfully request member libraries contact Christine Garrow, Customer Services Representative, to ensure their account profile is completed piror to first order. Please contact 800-875-2785 - Monday thru Friday 8:30 .m. - 6:00 p.m. EST.

ADDITIONAL DISCOUNTS

Volume Price Breaks	Percentage Discount
$5,000.00 - $9,999.99	N/A
$10,000.00 - $14,999.99	N/A
$15,000.00 - $22,499.99	N/A
$23,500.00 - $29,999.99	N/A
$30,000.00 - $39,999.99	N/A
$40,000.00 - $49,999.99	N/A
$50,000.00 - $62,499.99	N/A
$62,500.00 - $75,999.99	N/A
$76,000.00 - and above	N/A

Other Discounts	Percentage Discount
Electronic Access Ordering	$0.00
Prepayment Plan Discount	N/A
Deposit Account Discount	N/A
Approval Plan Discount	Same as regular orders.
Please Explain:	
Midwest Tape does not charge any fees	
or provides an additional discount to	
libraries wanted to use electronic ordering	
methods. 'Approval Plans' known at	
Midwest Tape as Standing Order Plans	
product is discounted at the quoted rate	
as standard orders.	

Additional Information

All libraries will receive the noted discounts per the agreement regardless of order quantities or whether the order is received electronically/through Customized Standing Order Plans.

NEW YORK STATE OF OPPORTUNITY | Office of General Services
Procurement Services

Corning Tower, Empire State Plaza, Albany, NY 12242 | https://ogs.ny.gov/procurement | customer.services@ogs.ny.gov | 518-474-6717

Contract Award Notification

Title	:	**Group 20060 – Books & Non-Print Library Materials & Related Ancillary Services (Statewide)** **Classification Code(s): 55**
Award Number	:	**22868** **(Replaces Award 21274)**
Contract Period	:	**June 1, 2015 – May 31, 2020**
Bid Opening Date	:	**December 23, 2014 and (Periodic Recruitment August 24, 2016)**
Date of Issue	:	**June 2, 2015 (Revised January 10, 2020) Updated Information is in Red**
Specification Reference	:	**As Incorporated In The Invitation for Bids and Purchasing Memorandums Issued Through December 16, 2014**
Contractor Information	:	**Appears on Page 2 of this Award**

Address Inquiries To:

State Agencies & Vendors		Political Subdivisions & Others	
Name :	Christa Lee	Procurement Services Customer Services	
Title :	Contract Management Specialist 1		
Phone :	518-473-7227	Phone :	518-474-6717
E-mail :	Christa.Lee@ogs.ny.gov	E-mail :	customer.services@ogs.ny.gov

Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.

Description

This award covers Books and Non-Print Library Materials and Related Ancillary Services. Types of Books included are Trade, Non-Trade, Scientific, Technical, Law, Text Books, Reference, Encyclopedias, Handbooks, University Press Publications, Society or Association Publications, Foreign Publications and Out of Print Books. Non-Print items include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlases/charts; video games; sheet music/scores; and audio visual materials. **This version of the Contract Award Notification contains the Original and Five (5) Supplemental Awards which were previously published separately.**

PR # 22868

NOTE: See individual contract items to determine actual awardees.

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67861	ABDO PUBLISHING COMPANY 8000 W. 78th Street, Suite 310 Edina, MN 55439	Pat Dumdei Tel: (800) 800-1312 Fax: (800) 862-3480 E-mail: customerservice@abdopublishing.com Website:www.abdopublishing.com	411699406 1000044840

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $1.00
Guarantees Delivery: 45 Calendar days A/R/O

PC66953 **SB**	ADAMS BOOK CO, INC. 140 58th Street Brooklyn, NY 11220	Miguel Gonzalez Tel: (800) 221-0909 Fax: (718) 852-3212 E-mail: miguelg@adamsbook.com Website: www.adamsbook.com	111764921 1000005563

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $30.00
Guarantees Delivery: 45 Calendar days A/R/O

~~**PC66995**~~ ~~**SB**~~	~~ADVANCED EDUCATIONAL PRODUCTS, INC.~~ ~~2495 Main Street, Ste. 230~~ ~~Buffalo, NY 14214~~	~~Erica Elkins-Aquila~~ ~~Tel: (800) 311-1522 ext. 17~~ ~~Fax: (716) 446-5642~~ ~~E-mail: eelkins@aepbooks.com~~ ~~Website: http://www.aepk12.com~~	~~161597345~~ ~~1000008440~~

~~Offers Electronic Access Ordering (EDI)~~
~~Accepts NYS Procurement Card Up to $85,000.00~~
~~No additional discount for purchases made with NYS Procurement Card~~
~~No Prompt Payment Discount~~
~~Minimum Order: No minimum order~~
~~Guarantees Delivery: 45 Calendar days A/R/O~~

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67157	AKJ WHOLESALE, LLC DBA AKJ BOOKS 4702 Benson Ave Halethorpe, MD 21227	John Porter Tel: (800) 922-6066 Fax: (888) 770-2338 E-mail: salessupport@akjeducation.com Website: www.akjeducation.com	203905442 1100003197

(continued)

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $25.00
Guarantees Delivery: 45 Calendar days A/R/O

CANCELLED:

~~**PC66954**~~ ~~**SB**~~	~~AMBASSADOR BOOK SERVICE, INC.~~ ~~445 Broad Hollow Road, Ste. 206~~ ~~Melville, NY 11747~~	~~Connie Angello~~ ~~Tel: (800) 431-8913~~ ~~Fax: (631) 770-1041~~ ~~E-mail:~~ ~~cangello@ambassadored.com~~ ~~Website: www. ambassadored.com~~	~~112317664~~ ~~1000005649~~

~~Offers Electronic Access Ordering (EDI)~~
~~Accepts NYS Procurement Card Up to $15,000.00~~
~~No additional discount for purchases made with NYS Procurement Card~~
~~No Prompt Payment Discount~~
~~Minimum Order: no minimum dollar amount~~
~~Guarantees Delivery: 45 Calendar days A/R/O~~

PC66996 **WBE**	AMERICAN READING COMPANY 201 S. Gulph Rd. King of Prussia, PA 19406	David Lyness Tel: (866) 810-2665 Fax: (610) 992-4156 E-mail: Contracts@americanreading.com Website: www.americanreading.com	232965253 1000034881

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Accepts NYS Procurement Card Up to $1,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	**CONTRACTOR & ADDRESS**	**TELEPHONE #**	**FED. IDENT. #** **NYS VENDOR #**
PC67698 **SB** **MBE**	ATLANTIC COAST MARKETING, INC. 22 College Ave. S Nyack, NY 10960	Vernon Hamilton Tel: (845) 727-7720 Tel: (877) 803-0325 Fax: (866) 806-2303 E-mail: hamilton@acmit.com Website: www.acmit.com	223030192 1100006850

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $300.00
Guarantees Delivery: 30 Calendar days A/R/O

(continued)

PC66997

BAKER & TAYLOR, LLC
2550 West Tyvola Road
Suite 300
Charlotte, NC 28217

Lee Ann Queen
Tel: (800) 775-7930, ext. 3245
Fax: (704) 998-3260
E-mail: bids@baker-taylor.com
Website: www.btol.com

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Customer Service/Sales Representation (Book and Spoken Word)
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Customer Service Representative
Tel: (800) 775-1200 ext. 2783
E-mail: LeeAnn.Turner@baker-taylor.com

Marne Fellows
Sales Consultant
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Tarita Murray
Sales Consultant
Tel: (800) 775-7930 ext. 1210
E-mail: tarita.murray@baker-taylor.com

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Delilah Waldroup
Customer Service Representative
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Roger Lendach
District Account Manager
Tel: (800) 775-7930 ext. 1220
E-mail:
roger.lenadach@bakertaylor.com

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Tel: (800) 775-1200 ext. 2765
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National Sales Manager,
College Library Group
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Frances Lewis
Inside Sales Manager
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E-mail: flewis@baker-taylor.com

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No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC66998	BARNES & NOBLE BOOKSELLERS, INC. 122 Fifth Avenue New York, NY 10011 **For Quotes** Natiesha Evans-Watt Tel: (212) 352-3668 E-mail: Nevans-watt@bn.com Or contact your local B&N Store	Madeline Noi Tel: (212) 352-3769 (800) The-Book / 843-2665 E-mail: businessdevelopmentbids@bn.com **For Remittance Information** PO Box 951610 Dallas, TX 75395-1610 **Accounts Receivable** Joseph Mascia Tel: (732) 656-7267 Fax: (732) 656-2705 E-mail: jmascia@bn.com	134030389 1000046258

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $1.00
Guarantees Delivery: 45 Calendar days A/R/O

PC66999 **SB** **WBE**	BAUM & BEAULIEU ASSOCIATES, INC. 46 O'Connell Ct. Great River, NY 11739	Susan Baum Tel: (800) 923-2444 Fax: (631) 277-4054 E-mail: susan@baumbooks.com Website: www.baumbooks.com	203856165 1000044342

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
1% additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $5.00
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67699 SB	BEARPORT PUBLISHING COMPANY, INC. 5357 Penn Ave. S. Minneapolis, MN 55424	Kelly Mullen Tel: (888) 960-1346 ext. 203 Tel: (877) 337-8577 Fax: (866) 337-8557 Fax: (212) 337-8557 E-mail: kelly@brainstormlibrary.com Website: www.bearportpublishing.com	200298488 1100003226

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67158	BMI EDUCATIONAL SERVICES, INC. 26 Haypress Road Cranbury, NJ 08512	Lynda Bradley Tel: (800) 222-8100 Fax: (800) 986-9393 E-mail: lbradley@bmionline.com Website: www.bmionline.com	221753177 1000008712

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67000 SB	BOOK REVUE WHOLESALE, LTD. 313 New York Ave. Huntington, NY 11743	Alyssa Axelrod Tel: (800) 390-7413 Fax: (631) 271-5890 E-mail: alyssa@bookrevue.com Website: www.bookrevue.com	274692456 1100069516

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67862	BOUND TO STAY BOUND BOOKS, INC. 1880 West Morton Jacksonville, IL 62650	Lori Smith Tel: (800) 637-6586 Fax: (217) 245-0424 E-mail: SALES@BTSB.COM Website: WWW.BTSB.COM	370439010 1000044797

(continued)

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No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC66955	BRODART CO. 500 Arch Street Williamsport, PA 17701	Debbie Schall Tel: (800) 474-9802 Fax: (800) 999-6799 E-mail: Debbie.Schall@brodart.com Website: www.brodart.com	232248758 1000008909

Offers Electronic Access Ordering (EDI)
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No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67327	CBM, LLC 1215 Overidge View Court Ann Arbor, MI 48103	Amy Patrick Tel: (800) 487-2323 Tel: (734) 619-6217 Fax: (734) 929-2649 E-mail: amy.patrick@sleepingbearpress.com Website: www.cherrylakepublishing.com	205654413 1100105824

Offers Electronic Access Ordering (EDI)
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No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $1
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	**CONTRACTOR & ADDRESS**	**TELEPHONE #**	**FED. IDENT. # NYS VENDOR #**
PC67863	CAVENDISH SQUARE PUBLISHIING, LLC 243 5th Ave., Suite 136 New York, NY 10016	Arlene Riley Tel: (877) 980-4450 Fax: (877) 988-4454 E-mail: bids@csqpub.com Website: www.cavendishsq.com	461843778 1100095985

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

PC66956

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1000009563

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Tel: (800) 877-4253
Fax: (877) 283-4253
E-mail:customerservice@cengage.com

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Cengage Learning Customer Service
10650 Toebben Drive
Independence, KY 41051
Tel: (800) 354-9706
Fax: (800) 487-8488

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $50.00
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67159	CENTRAL PROGRAMS, INC. DBA GUMDROP BOOKS 802 N. 41st St. Bethany, MO 64424	Lori Nashan/ Delcena Hamilton Tel: (800) 821-7199 Fax: (866) 321-7199 E-mail: wecare@gumdropbooks.com Website: www.gumdropbooks.com	431057878 1000044854

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67864	CEREBELLUM CORPORATION 145 Corte Madera Town Center Suite 406 Corte Madera, CA 94925	Becky Rena Tel: (415) 541-9901 Fax: (805) 426-8136 E-mail: brena@cerebellum.com Website: www.libraryvideocompany.com	541687620 1000040965

(continued)

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CANCELLED

~~**PC67328**~~	~~CHANNING BETE COMPANY, INC.~~ ~~One Community Place~~ ~~South Deerfield, MA 01373~~	~~Karen McGuane~~ ~~Tel: (888) 834-6627 ext. 6513~~ ~~Fax: (800) 329-2939~~ ~~E-mail:~~ ~~kmcguane@channing-bete.com~~ ~~Website: www.channing-bete.com~~	~~042041237~~ ~~1000005239~~

~~Does not offer Electronic Access Ordering (EDI)~~
~~Accepts NYS Procurement Card Up to $85,000.00~~
~~No additional discount for purchases made with NYS Procurement Card~~
~~Prompt Payment Discount 1% discount if paid within 10 days~~
~~Minimum Order: $100~~
~~Guarantees Delivery: 45 Calendar days A/R/O~~

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67329	CHILDREN'S PLUS, INC. 1387 Dutch American Way Beecher, IL 60401	Margaret Finnigan Tel: (800) 230-1279 ext. 4120 Fax: (800) 896-7213 E-mail: margaretf@childrensplusinc.com Website: www.childrensplusinc.com	364078966 1100005432

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67254 **MBE**	COMPLETE BOOK AND MEDIA SUPPLY, LLC 1200 Toro Grande Drive, Ste. 200 Cedar Park, TX 78613	Jessica Kelly Tel: (800) 986-1775 Fax: (512) 616-0410 E-mail: jessica@completebook.com Website: www.completebook.com	742852244 1100005453

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

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PC67865	CONN EDUCATION, INC. DBA CLASSROOM LIBRARY COMPANY 3901 Union Blvd., Suite 155 St. Louis, MO 63115	Cristin Choat or Christopher Teter Tel: (888) 318-2665 Fax: (877) 716-7272 E-mail: cristin@classroomlibrarycompany.com Website: www.classroomlibrarycompany.com	273910452 1100133574

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $100
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC68164	COUGHLAN COMPANIES, LLC DBA CAPSTONE AND CAPSTONE CLASSROOM 1710 Roe Crest Drive North Mankato, MN 56003-1806	Customer Service Tel: (800) 747-4992 Fax: (888) 262-0705 E-mail: CustomerService@capstonepub.com Website: www.capstonepub.com	824045107 1100210642

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CANCELLED:

~~**PC66959**~~	~~DAVIDSON TITLES, INC.~~ ~~2345 Doctor F. E. Wright Drive~~ ~~Jackson, TN 38305~~	~~Brenda T. Davidson~~ ~~Tel: (800) 433-3903~~ ~~Fax: (800) 787-7935~~ ~~E-mail:~~ ~~brenda@davidsontitles.com~~ ~~Website: www.davidsontitles.com~~	~~621076296~~ ~~1000032409~~

~~Offers Electronic Access Ordering (EDI)~~
~~Accepts NYS Procurement Card Update to $85,000.00~~
~~No additional discount for purchases made with NYS Procurement Card~~
~~No Prompt Payment Discount~~
~~Minimum Order: $25.00~~
~~Guarantees Delivery: 45 Calendar days A/R/O~~

PC67966	DELANEY EDUCATIONAL ENTERPRISES, INC. 1387 Dutch American Way Beecher, IL 60401	Jennifer Decker Tel: (800) 788-5557 Fax: (800) 660-2199 E-mail: jenniferd@deebooks.com Website:www.deebooks.com	821533684 1100193784

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No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
	CANCELLED:		
~~PC66960~~	~~EASTERN BOOK COMPANY~~ ~~7 Lincoln Ave~~ ~~Scarborough, ME 04074~~	~~Belinda Saulle~~ ~~Tel: (800) 937-0331~~ ~~Fax: (800) 214-3895~~ ~~E-mail: bsaulle@ebc.com~~ ~~Website: www.ebc.com~~	~~010244194~~ ~~1000005174~~

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~~Accepts NYS Procurement Card Update to $85,000.00~~
~~No additional discount for purchases made with NYS Procurement Card~~
~~No Prompt Payment Discount~~
~~Minimum Order: $50.00~~
~~Guarantees Delivery: 45 Calendar days A/R/O~~

PC67255	FINDAWAY WORLD, LLC 31999 Aurora Rd. Solon, OH 44139	Donna Destefano Tel: (877) 893-0808 ext. 215 Fax: (877) 893-0809 E-mail: ddestefano@findawayworld.com Website:www.findawayworld.com	201388060 1100003190

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $100.00
Guarantees Delivery: 45 Calendar days A/R/O

PC66961	FOLLETT SCHOOL SOLUTIONS, INC. 1340 Ridgeview Dr. McHenry, IL 60050	Nora Belford (Quotes or Contract) Kelline Jourdan (Orders) Tel: (708) 884-6059 (Nora) (708) 884-8055 (Kelline) Fax: (800) 852-5458 E-mail for Quotes: fssbidadmin@follett.com E-mail for Orders: fssorders@follett.com Website: www.follettlearning.com	411426933 1100113853

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Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

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CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67700	GARETH STEVENS PUBLISHING, LLLP 111 E 14th St., Suite 249 New York, NY 10003	Arlene Riley Tel: (800) 542-2595 Fax: (877) 542-2596 E-mail: bids@gspub.com Website: www.garethstevens.com	270404519 1100104699

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Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67256	GARRETT OPERATING COMPANY, LLC DBA GARRETT BOOK COMPANY 130 East 13th Street Ada, OK 74820	Cheryl York Tel: (800) 654-9366 Fax: (888) 525-1560 E-mail: cheryl.york@garrettbooks.com Website: www.garrettbooks.com	811079220 1100159732

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67001	GL GROUP, INC. DBA BOOKSOURCE 1230 Macklind Ave. St. Louis, MO 63110	Sean Carosello Tel: (800) 444-0435 ext. 283 Fax: (800) 647-1923 E-mail: scarosello@booksource.com Website: www.booksource.com	431018725 1100102035

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $1.00
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67002	GREENWOOD PUBLISHING DBA HEINEMANN 361 Hanover St. Portsmouth, NH 03801	Lori Lampert (Contract Admin) Shira Baum (day to day) Tel: (800) 225-5800 (Lori) (800) 923-2444 (Shira) E-mail: lori.lampert@heinemann.com shira@baumbooks.com Website: www.heinemann.com	061154537 1000011213

(continued)

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67701 **SB**	GREY HOUSE PUBLISHING, INC. PO BOX 56 Amenia, NY 12501	Yvonne Coburn Tel: (518) 789-8700 Fax: (845) 373-6370 E-mail: ycoburn@greyhouse.com Website: www.greyhouse.com	133044945 1000026400

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $50.00
Guarantees Delivery: 45 Calendar days A/R/O

PC66962	HERTZBERG-NEW METHOD, INC. DBA PERMA-BOUND BOOKS 617 E. Vandalia Road Jacksonville, IL 62650	Sarah Dundun Tel: (800) 637-6581 ext. 122 Fax: (800) 551-1169 E-mail: sarahd@perma-bound.com Website: www.perma-bound.com	371001726 1000009226

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	**CONTRACTOR & ADDRESS**	**TELEPHONE #**	**FED. IDENT. #** **NYS VENDOR #**
PC66963	INGRAM LIBRARY SERVICES, LLC One Ingram Blvd. La Vergne, TN 37086	Amanda Inman Tel: 800-937-5300 ext. 35771 Fax: 888-210-4161 E-mail: amanda.inman@ingramcontent.com Website: www.ingramcontent.com	621746696 1000048432

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

PC67160	JEFCO SALES, INC. DBA APPLE BOOKS PO Box 3005 Mankato, MN 56002	Dave Schlichte Tel: (800) 783-6767 Fax: (412) 688-8545 E-mail: customerservice@applebks.com Website: www.applebks.com	251332502 1100003218

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $50.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67161	LAKESHORE EQUIPMENT COMPANY DBA LAKESHORE LEARNING MATERIALS 2695 E. Dominguez St. Carson, CA 90895	Rafael Muro Tel: (800) 421-5354 ext. 2653 Fax: (310) 537-7990 E-mail: rmuro@lakeshorelearning.com Website: www.lakeshorelearning.com	941525814 1000009785

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	**CONTRACTOR & ADDRESS**	**TELEPHONE #**	**FED. IDENT. # NYS VENDOR #**
PC67702 **SB** **MBE**	LEE & LOW BOOKS, INC. DBA BEBOP BOOKS 95 Madison Ave. New York, NY 10016	Craig Low Tel: (212) 779-4400 ext. 26 Tel: (888) 320-3190 ext. 28 Fax: (212) 683-1894 E-mail: clow@leeandlow.com Website: www.leeandlow.com	133599568 1100126193

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67162	LERNER PUBLISHING GROUP 241 First Avenue North Minneapolis, MN 55401	Brad Richason Tel: (800) 328-4929 Fax: (800) 332-1132 E-mail: brichason@lernerbooks.com Website:www.lernerbooks.com	410833899 1000044837

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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $10.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67257	LIBRARY SALES, INC. DBA SEBCO BOOKS 2001 SW 31st Avenue Pembroke Park, FL 33009	Danny Comer Tel: (800) 223-3251 Fax: (954) 987-2200 E-mail: bids@SebcoBooks.com Website:www.sebcobooks.com	650540354 1000045081

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $1.00
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC66964 **SB**	MAIN STREET BOOK SHOP, INC. 501 Mamaroneck Ave. White Plains, NY 10605	Nicky Kennedy Tel: (888) 228-7550 Fax: (888) 228-7578 E-mail: mainstreetbook@gmail.com Website: www.mainstreetbookcompany.com	132531130 1000043508

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $10.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67866	MACKIN BOOK COMPANY DBA MACKIN EDUCATIONAL RESOURCES 3505 County Road 42 West Burnsville, MN 55306	Lynn Bendt Tel: (800) 245-9540 Fax: (800) 369-5490 E-mail: bids@mackin.com Website: www.mackin.com	411658426 1000017902

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

CANCELLED

~~PC67330~~	~~MARCO BOOK COMPANY, INC.~~ ~~DBA EVERBIND BOOKS~~ ~~60 Industrial Rd.~~ ~~Lodi, NJ 07644~~	~~Edward T. Yamada~~ ~~Tel: (800) 842-0485 ext.213~~ ~~Fax: (973) 458-5289~~ ~~E-mail: eyamada@everbind.com~~ ~~Website: www.everbind.com~~	~~112006089~~ ~~1000056423~~

~~Offers Electronic Access Ordering (EDI)~~
~~Accepts NYS Procurement Card Up to $85,000.00~~
~~No additional discount for purchases made with NYS Procurement Card~~
~~No Prompt Payment Discount~~
~~Minimum Order: $25.00~~
~~Guarantees Delivery: 45 Calendar days A/R/O~~

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67003	MATTHEW BENDER & COMPANY, INC. 9443 Springboro Pike Miamisburg, OH 45342	James Keenan Tel: (937) 247-8139 Fax: (800) 624-8278 E-mail: James.P.Keenan@lexisnexis.com Website: https://store.lexisnexis.com/	140499170 1000006624

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67703	MIDWEST LIBRARY SERVICE, INC. 11443 St. Charles Rock Road Bridgeton, MO 63044	Terry Marksbury Tel: (314) 739-3100 Tel: (800) 325-8833 Fax: (314) 739-1326 Fax: (800) 962-1009 E-mail: marksbury@midwestls.com Website: www.midwestls.com	430834505 1000009339

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $10.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67004	MIDWEST TAPE, LLC 6950 Hall Street Holland, OH 43528	Christine Garrow Tel: (800) 875-2785 Fax: (800)-444-6645 E-mail: cgarrow@midwesttapes.com Website: www.midwesttapes.com	371499686 1000009233

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Offers Electronic Access Ordering (EDI)
Does not accept NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC66965	MT LIBRARY SERVICES, INC. DBA JUNIOR LIBRARY GUILD 7858 Industrial Parkway Plain City, OH 43064	Angela Christianson Tel: (800) 325-9558 ext.7276 Fax: (800) 827-3080 E-mail: jlgbids@juniorlibraryguild.com Website: www.juniorlibraryguild.com	593263895 1000009577

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67258	OTTO HARRASSOWITZ GMBH & CO. KG Kreuzberger Ring 7b-d 65205 Wiesbaden, Germany	Edith Klee Tel: (800) 348-6886 Fax: (800) 574-5732 E-mail: service@harrassowitz.de Website: www.harrassowitz.de	980423753 1000009840

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67163	PEARSON EDUCATION, INC. 330 Hudson Street New York, NY 10013 Remittance Address PO Box 409496 Atlanta, GA 30384	Customer Service Tel: (800) 848-9500 Fax: (877) 260-2530 E-mail: customerservice@pearson.com Website: www.pearsonschool.com	221603684 1000008708

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $50.00
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67164	PERFECTION LEARNING CORPORATION 1000 N. Second Avenue Logan, IA 51546	Kristin Hipwell Tel: (515) 309-8091 Fax: (800) 762-2999, ext. 8091 E-mail: bids@perfectionlearning.com Website: www.perfectionlearning.com	420895541 1000009325

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $15,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC66958	PROQUEST, LLC 789 East Eisenhower Parkway Ann Arbor, MI 48108	Christopher Kaul Tel: (800) 521-0600 Fax: (877) 241-5612 E-mail: Christopher.kaul@proquest.com Website: www.proquest.com	392053855 1000040727

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $50,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CANCELLED:

~~PC67165~~	~~QUALITY BOOKS, INC.~~ ~~1003 W. Pines Road~~ ~~Oregon, IL 61061~~	~~Marcia Beauchem~~ ~~Tel: (800) 323-4241 ext. 495~~ ~~Fax: (815) 732-4499~~ ~~E-mail:~~ ~~marcia.beauchem@quality-books.com~~ ~~Website: www.qbibooks.com~~	~~061818765~~ ~~1000036588~~

~~Offers Electronic Access Ordering (EDI)~~
~~Accepts NYS Procurement Card Up to $85,000.00~~
~~No additional discount for purchases made with NYS Procurement Card~~
~~No Prompt Payment Discount~~
~~Minimum Order: $1.00~~
~~Guarantees Delivery: 45 Calendar days A/R/O~~

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67860	RAINBOW BOOKS, INC. P.O. Box 159 Crete, IL 60417	Michael Beechin Tel: (800) 255-0965 Fax: (800) 827-5988 E-mail: mikeb@rainbowbookcompany.com Website: www.rainbowbookcompany.com	611846102 1100189966

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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67260 **WBE**	SADDLEBACK EDUCATIONAL, INC. 151 Kalmus Drive, J-1 Costa Mesa, CA 92626	Amber Dormanesh Tel: (714) 640-5200 Fax: (714) 640-5297 E-mail: bids@sdlback.com Website: www.sdlback.com	953740226 1000009825

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC66966	SCHOLASTIC, INC. 557 Broadway New York, NY 10012	Michelle Parker Regional Director for New York State Tel: (908) 635-4914 Fax: (866) 560-6930 E-mail: MParker1@scholastic.com rfp-cholastic@scholastic.com Website:www.scholastic.com	131824190 1000006121

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: >$0.00
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	**CONTRACTOR & ADDRESS**	**TELEPHONE #**	**FED. IDENT. #** **NYS VENDOR #**
PC67166	SCHOLASTIC LIBRARY PUBLISHING, INC. 90 Old Sherman Turnpike Danbury, CT 06810	Kathy Brown/ Customer Service Tel: ~~(800) 621-1115 ext. 6~~ (800) 621-1115 ext. 4 Fax:(203) 797-3478 ~~(866) 783-4361~~ E-mail: kbrown@scholasticlibrary.com slpservice@scholastic.com Website: www.scholasticlibrary.digital.scholastic.com	061226353 1000036529

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $0.00
Guarantees Delivery: 45 Calendar days A/R/O

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PC67005	STEPS TO LITERACY, LLC PO BOX 6737 Bridgewater, NJ 08807	Bryan Thompson Tel: (800) 895-2804 Fax: (866) 560-8699 E-mail: sales@stepstoliteracy.com Website: www.stepstoliteracy.com	223603124 1000020040

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $10 minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67261 **SB**	SUSSMAN EDUCATION COMPANY, INC. 150 East 52nd Street, Suite 32002 New York, NY 10022	Ronnie Sussman Tel: (800) 350-7180 Fax:(212) 371-8882 E-mail: info@sussmaneducation.com Website: www.sussmaneducation.com	112270606 1000024088

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
1% Prompt Payment Discount for payment within 15 days of delivery and/or receipt of invoice
Minimum Order: $25.00
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67867	TEL/LOGIC, INC. DBA TEXTBOOK CENTRAL 400 Post Ave., Suite 410 Westbury, NY 11590	Bruce Conlin Tel: (516) 801-7861 Fax: (516) 801-7871 E-mail: bconlin@textbookcentral.com Website: www.textbookcentral.com	112907608 1000011968

Does not offer Electronic Access Ordering (EDI)
Does not accept NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $100
Guarantees Delivery: 45 Calendar days A/R/O

PC67262	TEXTBOOK WAREHOUSE, LLC DBA TEXTBOOK WAREHOUSE 936 Curie Dr. Alpharetta, GA 30005	Stacy Minor, Controller Tel: (800) 796-9152 ext. 221 Fax: (800) 796-9154 E-mail: info@tbwarehouse.com Contract renewal Patty Walters, Marketing Tel: (800) 796-9152 ext. 252 E-mail: Patty@textbookwarehouse.com	202080039 1100024287

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Michelle Overstreet
Tel: (800) 796-9152 ext. 227
E-mail:
Michelle@textbookwarehouse.com
Website:
www.textbookwarehouse.com

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67167	THE CHAPTERS GROUP, LLC 4179 NW 29th Way Boca Raton, FL 33434	Laurence Bard Tel: (866) 229-7976 ext. 4 Fax: (561) 243-3668 E-mail: Laurence@chaptersgroup.com Website: www.chaptersgroup.com	271623513 1100131421

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $50.00
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67704	THE CREATIVE COMPANY DBA SMART APPLE MEDIA 2140 Howard Dr. W North Mankato, MN 56003	Laurie Osburn Tel: 1 (800) 561-3943 Fax: 1 (877) 894-1304 E-mail: losburn@smartapple.com Website:www.smartapple.com	411948137 1100024288

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67263	THE LEARNING CONNECTION COMPANY 4100 Silver Star Rd., Ste. D Orlando, FL 32808	Ryan Handberg Tel: (800) 218-8489 Fax: (800) 250-4951 E-mail: TLC@TLConnection.com Website: www.TLConnection.com	593094275 1100003013

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $25.00
Guarantees Delivery: 45 Calendar days A/R/O

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PC68165	THE PENWORTHY COMPANY, LLC 219 N. Milwaukee St. Milwaukee, WI 53202	Brendan Loughrige Kasey Creevy Tel: (800) 262-2665 ext. 207 Fax: (414) 287-4602 E-mail: brendan.loughrige@penworthy.com bid.administrator@penworthy.com Website: www.penworthy.com	812043142 1100210559

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67705	THE ROSEN PUBLISHING GROUP, INC. 29 E. 21st St. New York, NY 10010	Arlene Riley Tel: (646) 205-7461 Tel: (800) 237-9932 Fax: (888) 436-4643 E-mail: bids@rosenpub.com Website: www.rosenpublishing.com	133129750 1100001011

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $15,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC66967	WEST PUBLISHING CORPORATION 610 Opperman Drive Eagan, MN 55123	Dave Ouellette Tel: (800) 328-9378 or (800) 328-4880 E-mail: david.ouellette@tr.com Website: www.west.thomson.com	411426973 1000004857

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67331	WESTON WOODS STUDIOS, INC. 90 Old Sherman Turnpike Danbury, CT 06816	Jennifer Philpott Tel: (800) 243-5020 Fax: (203) 797-3541 E-mail: wwbidsandquotes@scholastic.com Website: https://westonwoods.scholastic.com/products/westonwoods/	060716595 1100134851

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Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: $12.95
Guarantees Delivery: 45 Calendar days A/R/O

CONTRACT #	CONTRACTOR & ADDRESS	TELEPHONE #	FED. IDENT. # NYS VENDOR #
PC67332	WORLD BOOK, INC. 180 N. LaSalle Street, Suite 900 Chicago, IL 60601	Andrea Thorne Tel: (800) 975-3250 Fax: (800) 922-3766 E-mail: Andrea.Thorne@worldbook.com Website: www.worldbook.com	362364281 1000017719

Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67168	YANKEE BOOK PEDDLER, INC. DBA GOBI LIBRARY SOLUTIONS FROM EBSCO 999 Maple Street Contoocook, NH 03229	Bonnie LaRose Tel: (800) 258-3774 ext. 8895 Fax: (800) 451-8667 E-mail: blarose@ybp.com Website: www.ybp.com	020302143 1000005200

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to $85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

For Pricelists for this award, please see the Contractor Pricing pages located on the OGS website at:
http://www.ogs.ny.gov/purchase/spg/awards/2006022868CAN.HTM

Cash Discount, If Shown, Should be Given Special Attention.
INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" in this document.)

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:
The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

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RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

The Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS, RP, RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals;
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

DEBRIEFING:

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

DISPUTE RESOLUTION POLICY:

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the Procurement Services Dispute Resolution Process found at:
https://nyspro.ogs.ny.gov/sites/default/files/uploaded/Dispute%20Resolution%20Policy%20%289-2015%29.pdf

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ORDER OF PRECEDENCE:

The documents below address clarifications agreed to by the Contractor and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the contract award. The documents set forth below were included in Invitation for Bids (IFB) # 22868 or provided by the Contractor.

1. Appendix A
2. IFB Document
3. Appendix B
4. Appendix C
5. Appendix D
6. Attachment 1 – Price Pages
7. Attachments 2 -7
8. Awardees Bid and resultant clarifications

SCOPE:

The contract award is to be used by State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. This contract contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other.

The contract award shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music. Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlases/charts; video games; sheet music/scores; and audio visual materials.

The contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract.

DEFINITIONS:

Terms used in this Contract that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **"Ancillary Services"** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **"Bidder"** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a "Contractor." See also "Contractor."
3. **"Agency or Agency(ies)"** shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. **"Invitation for Bids (IFB)"**, a defined in Appendix B, shall refer to this document, and its appendices and attachments.
5. **"International Standard Book Number (ISBN)"** shall refer to the unique numeric commercial book identifier.
6. **"List Price"** shall mean Publishers Suggested Retail Price.
7. **"Lot"** shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014).*
8. **"MWBE"** shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.

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9. **"May"** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see "Should".
10. **"Must"** denotes the imperative in a clause or specification of this IFB or a resulting Contract. "Must" is synonymous with "required." Also see "Shall".
11. **"N/A"** is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. **"Net Price"** Shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.
13. **"New York State Procurement (NYSPro)"**((formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPro and PSG shall be used interchangeably for purposes of this solicitation.
14. **"NYS Vendor ID"** shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
15. **"Preferred Source Products"** shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. **"Preferred Source Program"** shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the "form, function and utility" requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).
17. **"Price realism"** is an evaluative concept which is concerned with whether a bidder's proposed prices are unrealistically low.
18. **"Shall"** denotes the imperative in a clause or specification of this IFB or a resulting Contract. "Shall" is synonymous with "required." Also see "Must".
19. **"Should"** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see "May".

PRICE:

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User's receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See "Delivery" clause for rush order charges.

Upon mutual agreement, delivery locations may be expanded per the "Extension of Use" clause.

Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Contractor. Discounts shall be applied to publishers' List Prices. A range of discounts and monetary amounts may be offered; however, the Contractor must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers' List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series

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ID: CUUR0000SA0L1,CUUS0000SA0L1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by Procurement Services.

ESTIMATED QUANTITIES:

The quantities or dollar values listed in the IFB are estimated only. The Contracts resulting from the IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately $90 million annually. The individual value of each resultant 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, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 Estimated/Specific Quantity Contracts and §27 Participation in Centralized Contracts.

Numerous factors could cause the actual volume of product purchased under the Contracts resulting from the IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In Procurement Services' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

CONTRACT PERIOD AND RENEWAL:

The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms

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and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, Termination For Convenience).

SHORT TERM EXTENSION:

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

ORDERS:

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as required. If offering a web-based ordering system, the Contractor represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Contractor further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Contractor shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Contractor in the event New York State learns of such claim by a third party.

The web-based ordering system shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

Contractor Name and Address
Agency/Facility/Political Subdivision, etc.
Contract Number
Purchase Order/Requisition Numbers
Contact (individual placing order)
Publisher, Description, ISBN
Net Price
Extended and Total Amounts

If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Contractor must demonstrate its system at an Albany, NY area location designated by the State.

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MINIMUM ORDER:

Minimum order shall be $100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

PRODUCT REQUIREMENTS:

Contractor shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at http://www.lbibinders.org/. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Contractor shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

Contractors shall identify, define, and provide a short description of the service(s) offered. Also, Contractors shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

INTERNET WEBSITES:

The State encourages Contractors to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by the New York State Procurement in accordance with any terms included in this contract prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

PROCUREMENT INSTRUCTIONS:

1. The Contracts listed herein have been issued under a multiple award structure. Authorized Users shall procure Products and services that best meet their form, function and utility requirements.

2. Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law §162 which requires that agencies afford first priority to the commodities/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such commodities/services meet the form, function and utility of the Authorized User.

3. Upon Authorized User acceptance of Products and/or services itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of Products and services accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products and services.

PURCHASE ORDERS AND INVOICING:

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

Purchase Orders:

Purchase orders are to include the following information:

A. Contract number;
B. Contractor name;
C. Contract item number and/or description;
D. International Standard Book Number (ISBN); and
E. Calculation of NYS Net Price.

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Invoices:

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice all of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

A. Contract number;
B. NYS Vendor Identification number;
C. Contract item number and description;
D. Purchase Order number; and
E. Line item breakdown of all charges to include Net Price of each product/service.

Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item. 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 accounting systems in use by different Authorized Users.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from the Office of General Services, New York State Procurement.

BACKORDERING:

Backordering shall be permissible only when authorized by the ordering Authorizes User. Contractor must complete orders within the guaranteed delivery period offered.

PACKING SLIPS:

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

LABELING:

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

SUBSTITUTIONS:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS:

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized

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User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

PRODUCT RETURNS DUE TO AUTHORIZED USER ERROR:

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee --not to exceed ten percent--for product returns due to Authorized User error.

CANCELLATION OF PURCHASE ORDERS:

Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

STATUS REPORT:

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reason.

CONTRACT PAYMENTS:

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the Delivery section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in clause, Purchase Orders and Invoicing.

CONTRACT ADMINISTRATOR:

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis.

TOLL-FREE NUMBER:

Contractor must provide a toll-free telephone number for the Authorized User usage. Contractor must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays.

INSURANCE REQUIREMENTS:

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7–Insurance Requirements. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices.

REPORT OF CONTRACT USAGE:

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6–Administrative Reports. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

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AUTHORIZED USER SALES REPORTS:

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State Contracts. Contract 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.

NEW YORK STATE PROCUREMENT CARD:

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

New York State political subdivisions and others authorized by New York State law may participate in 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 § 27 *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. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS New York State Procurement's Customer Services at (518) 474-6717.

NOTE TO ALL NON-STATE AGENCIES AND BIDDERS:

All such participating non-State agencies and contractors understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

EXTENSION OF USE:

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

EMERGENCY PURCHASING:

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

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CONTRACTOR PERFORMANCE:

Authorized Users should notify the Procurement Services Contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to Procurement Services.

MERCURY ADDED CONSUMER PRODUCTS:

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

RESERVATION:

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than $75,000.00.

AMERICANS WITH DISABILITIES ACT (ADA):

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Contractors are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

ADDITIONAL REQUIREMENTS:

A. NO DRUGS OR ALCOHOL
   For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.
B. TRAFFIC INFRACTIONS
   The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

PERIODIC RECRUITMENT:

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of $1,000,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. Procurement Services reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between Procurement Services and the Contractor.

CONTRACT ADVERTISING:

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND

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EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

POLICY STATEMENT:

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

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

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS:

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

The Contractor further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

Further, pursuant to 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 and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), 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.

BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs):

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at: http://esd.ny.gov/MWBE/Certification.html

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NEW YORK STATE STATEWIDE FINANCIAL SYSTEMS (SFS)

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Contractor agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: http://www.sfs.ny.gov/.

USE OF RECYCLED OR REMANUFACTURED MATERIALS:

New York State supports and encourages vendors 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 IFB. 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, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials.*

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. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

SURPLUS/TAKE-BACK/RECYCLING:

I. 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 take-back, recycling, or other options for disposition of equipment that is still in operable condition.

II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/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 Section III below for specific requirements governing electronic equipment recycling.

III. 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.

IV. If a Contractor offers a take-back/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

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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.

ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4:

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at http://ogs.ny.gov/EO/4/Default.asp. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

NEW YORK STATE VENDOR RESPONSIBILITY:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, 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 or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when 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. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor's responses to the 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 of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee 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.

PREFERRED SOURCE PRODUCTS:

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

"OGS OR LESS" GUIDELINES:

Purchases of the products included in this 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,

(continued)

warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-contract savings at least two 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 Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

CONTRACT MODIFICATION PROCEDURE:

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

ADDITIONAL LICENSE AGREEMENTS:

OGS will NOT review or approve "click through", "shrink wrap" or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if "click through", "shrink wrap" or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User's counsel, it is the responsibility of such Authorized User's counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated June 2014, is hereby expressly made a part of this Contract as if set forth at length herein and shall govern any situations not covered by the IFB document or Appendix A.

(continued)

APPENDIX B AMENDMENTS

Appendix B, § 6, Late Bids Rejected, is hereby deleted and replaced with the following:

6. 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 will the Commissioner be under any obligation to accept a Late Bid.

APPENDIX C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX D

Appendix D, *Contract Modification Procedure*, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

(continued)

State of New York
Office of General Services
Procurement Services
Contract Performance Report

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.:_____ **Contractor**_____

Describe Product* Provided (Include Item No., if available):_____

***Note:** "**Product**" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments:_____

_____

_____(over)

Agency:_____ Prepared by:_____

Address:_____ Title:_____

_____ Date:_____

_____ Phone:_____

_____ E-mail:_____

Please detach or photocopy this form & return by mail to:

OGS PROCUREMENT SERVICES
Customer Services, 38th Floor
Corning Tower - Empire State Plaza
Albany, New York 12242
customer.service@ogs.ny.gov
* * * * *

(continued)

State of New York Executive Department
Office of General Services - New York State Procurement
Corning Tower - 38thFloor
Empire State Plaza
Albany, NY 12242

INVITATION FOR BIDS

IMPORTANT: SEE "NOTICE TO BIDDERS" CLAUSES HEREIN
BIDS MAY BE SENT TO THE ABOVE ADDRESS ONLY
(E-Mail or Facsimile Bid Submissions Are NOT Acceptable)

BID OPENING **DATE:** **December 23, 2014** **TIME:** 11:00 AM ET	**TITLE:** **Group 20060 - BOOKS & NON-PRINT LIBRARY MATERIALS & RELATED ANCILLARY SERVICES** Classification Code: 55
INVITATION FOR BIDS NUMBER: **22868**	**SPECIFICATION REFERENCE:** As Incorporated in the Invitation For Bids
CONTRACT PERIOD: **January 1, 2015 to December 31, 2019**	

DESIGNATED CONTACTS FOR IFB INQUIRIES:

PRIMARY CONTACT	SECONDARY CONTACT	TERTIARY CONTACT
Theresa Kuo	Ruth Quezada	Jamie Nusbaum
Contract Management Specialist 1	Contract Management Specialist 2	Team Leader
Telephone: (518) 474-0259	Telephone: (518) 473-2801	Telephone: (518) 474-2387
E-mail: ningbin.kuo@ogs.ny.gov	E-mail: ruth.quezada@ogs.ny.gov	E-mail: edward.nusbaum@ogs.ny.gov

The bid 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 INVITATION FOR BIDS, Appendix A (Standard Clauses For New York State Contracts), Appendix B (OGS General Specifications), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, Bidder 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).** Information may be accessed at:
Procurement Lobbying: http://www.ogs.ny.gov/aboutOgs/regulations/defaultSFL_139j-k.asp

Bidder's Federal Tax Identification Number: *(Do Not Use Social Security Number)*	**NYS Vendor Identification Number:** *(See "New York State Vendor File Registration" clause)*		
If applicable, place an "x" in the appropriate box (***check all that apply***):	☐Small Business _____ #Employees	☐NYS Certified Minority Owned Business	☐NYS Certified Women Owned Business
Legal Business Name of Company Bidding:			
D/B/A - Doing Business As (if applicable):			
Street City State Zip County			
If applicable, place an "x" in the appropriate box (***check all that apply***):	☐ Manufactured Within New York State	☐ Manufactured Outside New York State	
If you are not bidding, place an "x" in the box and return this page only. ☐ WE ARE UNABLE TO BID AT THIS TIME BECAUSE_____.			
Bidder's Signature: Title:	Printed or Typed Name: Date:		
FOR NYS PROCUREMENT USE ONLY			
LIT ☐ MEMO ☐ LET ☐ OTHER☐ MISSING PAGES			

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT

STATE OF }
: **SS.:**
COUNTY OF }

On the _____ day of _____ in the year 20_____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that __**he** maintains an office at _____,
Town of _____**, County of** _____**,**
State of _____**; and further that:**

[Check One]

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

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

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

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

_____
Notary Public

_____
Registration No.

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SECTION 1: INTRODUCTION

1.1 Overview

This Invitation for Bids (IFB) is issued by the New York State (NYS) Office of General Services (OGS), NYS Procurement (NYSPro) for Books and Non-Print Library Materials and Related Ancillary Services specified herein for all New York State Authorized Users.

The Contracts awarded as a result of this IFB for Books and Non-Print Library Materials and Related Ancillary Services will be multiple centralized Contracts for the items listed in each of the Lots as specified below in Section 2.1, *Scope*. The resulting Contracts will be available for use by NYS Agencies and other Authorized Users of OGS Contracts (See Section 5.42, *Non-State Agencies Participation in Centralized Contracts*).

References to the State and its Agencies or Non-State Agencies as Authorized Users under this solicitation and the ensuing Contract(s) encompass and include all such entities within the definition of "Authorized User" set forth in State Finance Law §163(1)(k).

This IFB outlines the terms and conditions, and all applicable information required for submitting a bid. A Bidder should pay strict attention to the bid submission date and time to prevent disqualification. To ensure compliance with bid requirements and prevent possible disqualification, a Bidder must follow the format and instructions in Section 3.7, *Bid Submittal Instructions*. Bidders are strongly encouraged to read the language of this IFB thoroughly and to precisely follow the instructions included in the IFB and all Attachments.

1.2 IFB Documents

This IFB is composed of the following documents:

This IFB Document
Appendix A – Standard Clauses for New York State Contracts (January 2014)
Appendix B – General Specifications (June 2014)
Appendix C – Equal Employment Opportunity Staffing Plan (Form EEO100)
Appendix D – Contract Modification Procedure
Attachment 1 – Price Pages (Revised December 12, 2014)
Attachment 2 – Inquiries Template
Attachment 3 – New York State Required Certifications
Attachment 4 – Bid Submittal Checklist & General Questions (Revised December 12, 2014)
Attachment 5 – Encouraging Use of New York State Businesses
Attachment 6 – Administrative Reports (Contract Usage)
Attachment 7 – Insurance Requirements

1.3 Key Events/Dates

EVENT	DATE	TIME
IFB Release	October 27, 2014	N/A
Closing Date for Inquiries	November 05, 2014	5:00 PM ET
OGS NYSPro's Responses to Inquiries	December 12, 2014	N/A
Submission of Bid and Bid Opening	December 23, 2014	11:00 AM ET
Contract Term Begin (estimated)	January 1, 2015	N/A

1.4 New York State Contract Reporter

You must register with the New York State Contract Reporter at https://www.nyscr.ny.gov in order to receive notifications about this solicitation. Navigate to the "I want to find contracts to bid on" page to register for your free account. Answers to all questions of a substantive nature will be provided to all registered Bidders in the form of a question and answer document which will be posted and released through the New York State Contract Reporter site. Notifications about this solicitation will no longer be issued through OGS's Bidder Notification System (BNS) as of September 30, 2014.

1.5 Issuing Agency

The issuing State Agency is the New York State Office of General Services (OGS), New York State Procurement (NYSPro). This IFB is for the purchase of Books and Non-Print Library Materials and Other Related Ancillary Services. The Contracts awarded as a result of this IFB will be centralized Contracts primarily for, but not limited to, New York State Agencies. Additionally, the Contract may be utilized by Non-State agencies, including political subdivisions, school districts and others authorized by law (See Section 5.42, *Non-State Agencies Participation in Centralized Contracts* and Section 5.44, *Extension of Use*). Accordingly, references to the State and its Agencies as Authorized Users under this solicitation and the ensuing Contract encompass and include all such entities within the definition of "Authorized User" set forth in Appendix B, Section 2, *Definitions*. This IFB outlines the terms and conditions, and all applicable information required for submitting a bid. A Bidder should pay strict attention to the bid opening date and time to prevent disqualification. To ensure compliance with IFB requirements and avoid possible disqualification, Bidders must follow the format and instructions in Section 3.7, *Bid Submittal Instructions*. The scope of this IFB can be found in Section 2.1, *Scope*.

1.6 Summary of Policy and Prohibitions on Procurement Lobbying

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS and an Offerer/Bidder during the procurement process. An Offerer/Bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated staff, as of the date hereof, is identified on the first page of this solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website:
http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html

1.7 Inquiries

All inquiries concerning this IFB will be addressed to the following NYSPro designated contact(s) and issuing office:

PRIMARY CONTACT	SECONDARY CONTACT	TERTIARY CONTACT
Theresa Kuo Contract Management Specialist 1 E-mail: ningbin.kuo@ogs.ny.gov	Ruth Quezada Contract Management Specialist 2 E-mail: ruth.quezada@ogs.ny.gov	Jamie Nusbaum Team Leader E-mail: edward.nusbaum@ogs.ny.gov

All questions should be submitted electronically to one of the designated contacts listed above using the template found in Attachment 2 – *Inquiries Template* on or before the date and time listed in Section 1.3, *Key Events/Dates*. When e-mailing Attachment 2 to the designated contacts, a Bidder should annotate the subject of its submission as follows: "Inquiry for IFB 22868 – Books".

The prospective Bidder should notify the DESIGNATED CONTACT of any term, condition, etc., that precludes the vendor from submitting a compliant, responsive bid. Bidders are cautioned to read this document thoroughly to become familiar with all aspects of the bid. Prospective Bidders should note that all clarifications and exceptions including those relating to the terms and conditions of the Contract are to be resolved prior to the submission of a bid. Bidders entering into a Contract with the State are expected to comply with all the terms and conditions contained herein. Answers to all questions of a substantive nature will be given to all Prospective Bidders in the form of a formal addendum which will become part of the ensuing Contract.

A Bidder should raise any potential assumptions, exceptions, caveats, etc. to the terms and conditions, specifications, and requirements of this IFB during the inquiry period of the procurement. OGS will not entertain any exceptions to Appendix A. OGS will also not entertain exceptions to this IFB and Appendix B that are of a material and substantive nature.

No inquiries submitted via phone, fax, or mail will be accepted.

Responses to all questions of a substantive nature will be provided electronically on the OGS website and released through the New York State Contract Reporter.

For inquiries related specifically to Minority Women-Owned Business Enterprises (MWBE) provisions of this procurement solicitation, including Appendix C, the designated contacts are:

PRIMARY CONTACT	SECONDARY CONTACT	TERTIARY CONTACT
Anuola Surgick Telephone: (518) 486-9284 Facsimile: (518) 486-2679 E-mail: anuola.surgick@ogs.ny.gov	Tryphina Ramsey Telephone: (518) 473-7083 Facsimile: (518) 486-2679 E-mail: tryphina.ramsey@ogs.ny.gov	William Hill Telephone: (518) 474-5390 Facsimile: (518) 486-2679 E-mail: william.hill@ogs.ny.gov
New York State Office of General Services Office for Minority and Women Owned Business Enterprises Empire State Plaza, Corning Tower – 40th Floor Albany, NY 12242		

1.8 Definitions

Terms used in the IFB documents that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **"Ancillary Services"** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **"Bidder"** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a "Contractor." See also "Contractor."
3. **"Agency or Agency(ies)"** shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. **"Invitation for Bids (IFB)"**, a defined in Appendix B, shall refer to this document, and its appendices and attachments.
5. **"International Standard Book Number (ISBN)"** shall refer to the unique numeric commercial book identifier.
6. **"List Price"** shall mean Publishers Suggested Retail Price.
7. **"Lot"** shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014)*.
8. **"MWBE"** shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
9. **"May"** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see "Should".
10. **"Must"** denotes the imperative in a clause or specification of this IFB or a resulting Contract. "Must" is synonymous with "required." Also see "Shall".
11. **"N/A"** is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. **"Net Price"** Shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.
13. **"New York State Procurement (NYSPro)"**((formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPro and PSG shall be used interchangeably for purposes of this solicitation.
14. **"NYS Vendor ID"** shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.

15. **"Preferred Source Products"** shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. **"Preferred Source Program"** shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the "form, function and utility" requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).
17. **"Price realism"** is an evaluative concept which is concerned with whether a bidder's proposed prices are unrealistically low.
18. **"Shall"** denotes the imperative in a clause or specification of this IFB or a resulting Contract. "Shall" is synonymous with "required." Also see "Must".
19. **"Should"** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see "May".

1.9 Order of Precedence

Conflicts among the documents shall be resolved in the following order of precedence:

1. Appendix A (Standard Clauses for New York State Contracts)
2. This Invitation for Bids
3. Appendix B (General Specifications)
4. Bidder's Bid

SECTION 2: STATEMENT OF WORK & BIDDER QUALIFICATIONS

2.1 Scope

The purpose of this IFB is to establish a five (5) -year statewide term Contract. The resultant Contracts are to provide State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. **This IFB contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other. Bidders may bid on one or both Lots. Ancillary Services which are described in further detail in Section 1.8, *Definitions* and Attachment 1 – *Price Pages (Revised December 12, 2014),* may also be offered if Bidder bids on Lot 1 and/or Lot 2.**

The State of New York proposes to make multiple awards based on the terms and conditions stated herein for Books and Non-Print Library Materials and Related Ancillary Services specified. The resultant awards shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music.

Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlases/charts; video games; sheet music/scores; and audio visual materials.

The Contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract.

2.2 Estimated Quantities

The quantities or dollar values listed in this IFB are estimated only. The Contracts resulting from this IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately $90 million annually. The individual value of each resultant 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, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 *Estimated/Specific Quantity Contracts* and §27 *Participation in Centralized Contracts*.

Numerous factors could cause the actual volume of product purchased under the Contracts resulting from this IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In NYSPro's experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Bidder acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

2.3 Qualification of Bidder

A Bidder is advised that the State's intent in having the requirements listed below is to ensure that only qualified and reliable Contractors perform the work of the resulting Contract. A Bidder shall have the burden of demonstrating to NYSPro's satisfaction that it can in fact perform the work required. NYSPro retains the right to request any additional information pertaining to the Bidder's ability, qualifications, and procedures used to accomplish all work under the resulting Contract as it deems necessary to ensure safe and satisfactory work.

The Bidder shall have a permanent place of business from which books and Non-Print library materials are sold and shall employ sufficient number of qualified personnel to ensure that the Bidder can perform in accordance with all contractual requirements. The Bidder shall either be a responsible jobber or dealer of books or book-related materials who has been actively engaged in the regular book business for a period of three years or more prior to the bid opening date; or the Bidder shall be a responsible publisher, who has been in business for a period of three years or more prior to the bid opening date.

Bidder must demonstrate a minimum average sales volume of $1,000,000.00 annually in products meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. NYSPro reserves the right to request copies of purchase orders and/or invoices for verification or clarification. The State reserves the right to waive this requirement if a bona fide need can be established and it is deemed to be in the State's best interest to waive the requirement. In order for the State to waive this requirement, Bidder must offer a proprietary product available only to Authorized Users exclusively by the Bidder, and must supply sales reports for such along with the list of clients that have purchased the product in the past.

2.4 Other Qualifications

OGS reserves the right to request any additional information regarding a Bidder's abilities, qualifications and procedures as it deems necessary to ensure safe and satisfactory work under a Contract. This includes but is not limited to the following:

1. Satisfactory evidence that a Bidder has maintained an organization capable of performing the work specified herein in continuous operation for the past (3) years through submission of a Dun & Bradstreet Business Information Report or other equivalent evidence;
2. Evidence of a business establishment with adequate inventories of the product offered, and capacity to process and ship the volume of orders required by Authorized Users on a statewide basis. OGS may require a certificate from the Bidder showing the number of years the Bidder has been active in selling the Product offered and the size and location of the inventories regularly maintained;
3. References that demonstrate the ability of the Bidder to perform the work required of the resulting Contract;
4. Documentation to demonstrate a Bidder's ability to meet the delivery requirements set forth in Section 5.14, *Delivery*; and
5. A Bidder must certify its commitment to obtain all necessary proof of insurance with its bid via Attachment 4 – *Bid Submittal Checklist and General Questions (Revised December 12, 2014)*. See also Attachment 7 - *Insurance Requirements* for detailed insurance requirements.
6. OGS reserves the right to investigate or make any inquiry into the capabilities of any Bidder to properly perform under any resultant Contract.

SECTION 3: BID SUBMITTAL

3.1 Notice to Potential Bidders

Receipt of these bid documents does not indicate that OGS has pre-determined a company's qualifications to receive a Contract award. Such determination shall be based on the evaluation of a bid submission compared to the specific requirements and qualifications contained in these bid documents.

3.2 Performance and Bid Bonds

There are no bonds for this Contract. In accordance with Appendix B, §45 *Performance/Bid Bond,* the Commissioner of OGS has determined that no performance, payment or Bid bond, or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract shall be required at any time during the Term of the resulting Contract.

3.3 Bid Deviations

In accordance with the requirements set forth in Appendix B, §8 *Extraneous Terms*, if your proposal differs from the terms set forth in the Bid Documents, the Bidder shall explain such deviation(s) or qualification(s); and if necessary, provide details as part of their bid submission. Bidder is advised that OGS will not entertain any exceptions to Appendix A (New York State Standard Clauses). OGS will also not entertain exceptions to the Bid Documents and Appendix B (General Specifications) that are of a material and substantive nature.

3.4 Responsiveness

To be considered responsive, a Bidder must submit a bid that satisfies and addresses all requirements stated in the IFB. A proposal that fails to conform to all requirements may be considered non-responsive and may be rejected.

3.5 Proposal Liability

The State of New York will not be held liable for any cost incurred by the Contractor for work performed in the production of a proposal or for any work performed prior to the formal execution of a Contract. Proposals must be received at the specified location on or before the date and time listed in Section 1.3, *Key Events/Dates*. Bidder assumes all risks for timely, properly submitted deliveries. A Bidder is strongly encouraged to arrange for delivery of bids to OGS prior to the date/time of the bid opening. Late bids shall be rejected except as provided in Appendix B, §6 *Late Bids Rejected.* E-mail or faxed bids are not acceptable and shall not be considered. The received time of proposals will be determined by OGS by the clock at the final receiving location.

3.6 Proposal Validity

Bids must remain open and valid for at least 120 calendar days from the due date, unless the time for awarding the Contract is extended by mutual consent of OGS and the Bidder. A bid shall continue to remain an effective offer, firm and irrevocable, subsequent to such 120 calendar-day period until either tentative award of the Contract by OGS is made or withdrawal of the proposal in writing by the Bidder, who shall thereupon be obligated to execute a formal Contract.

3.7 Bid Submittal Instructions

This Invitation for Bids contains the following files:

Name	Format
Invitation for Bids #22868	PDF
Attachment 1 – Price Pages (Revised December 12, 2014)	Microsoft Excel
Attachment 2 – Inquiries Template	Microsoft Excel
Attachment 3 – New York State Required Certifications	PDF
Attachment 4 – Bid Submittal Checklist & General Questions (Revised December 12, 2014)	Microsoft Excel
Attachment 5 – Encouraging Use of New York State Businesses	PDF
Attachment 6 – Administrative Reports (Contract Usage)	Microsoft Excel
Attachment 7 – Insurance Requirements	PDF

It is recommended that the Bidder open, review and save/download all electronic files to the Bidder's hard drive and/or to a secure backup. Only completed files (in the specified format) should be saved to a portable electronic media. Do not return copies of Appendices A and B with your bid. **Please note that submitting a bid by fax or e-mail is not acceptable.**

Bidder shall submit the entire offering on portable electronic media (CD or memory stick) in accordance with the instructions below. **Only those items listed below in Part 2 are required in paper hard copy.**

A complete proposal consists of One (1) copies of each of the following:

1. **Portable electronic media containing:**
   a. Pages 1 and 2 of the IFB (signed, notarized, and scanned) (PDF);
   b. Completed Appendix C – *Equal Opportunity Staffing Plan (Form EEO 100)* (signed and scanned) (PDF);
   c. Completed Attachment 1 – *Price Pages (Revised December 12, 2014)* for all Items which are being bid (Microsoft Excel);
   d. Completed Attachment 3 – *New York State Required Certifications* (signed and scanned) (PDF);
   e. Completed Attachment 4 – *Bid Submittal Checklist & General Questions* (*Revised December 12, 2014*) (Microsoft Excel);
   f. Completed Attachment 5 – *Encouraging Use of New York State Businesses* (scanned) (PDF);
   g. Proof of Workers' Compensation and Disability Benefits Insurance coverage (see Attachment 7 – *Insurance Requirements* (PDF);
   h. Copy of at least one governmental and/or municipal contract (GSA, WSCA, other State, etc.) in accordance with Section 4, *Method of Award* (PDF);
   i. Completed, signed and notarized paper copy of Vendor Responsibility Questionnaire For-Profit Business Entity if online Questionnaire has not been completed (PDF); and
   j. Summary of sales demonstrating a minimum sales volume of $1,000,000.00 annually in product meeting the scope of the contract, offered to national public entities in the 36 month period preceding the bid opening (Microsoft Excel).

2. **Bound, original hard copy versions of each of the following:**
   a. Pages 1 and 2 of the IFB (signed with original ink signatures and notarized);
   b. Attachment 1 – *Price Pages (Revised December 12, 2014);*
   c. Completed Attachment 3 – *New York State Required Certifications* with original ink signatures;
   d. Completed Attachment 5 – *Encouraging Use of New York State Businesses;*

e. Proof of Workers' Compensation and Disability Benefits Insurance coverage (see Attachment 7 *Insurance Requirements* (PDF);
f. Completed Form ST-220-CA, Contractor Certification notarized with original ink signatures; and
g. Completed, signed and notarized paper copy of Vendor Responsibility Questionnaire For-Profit Business Entity if online Questionnaire has not been completed.

Also, please note that in the case of discrepancies between paper copies and electronic media submissions of the documents required in both formats, the electronic copy shall take precedence over the paper copy.

Failure to submit all required materials and/or incomplete forms may result in the bid being rejected.

3.8 Bid Delivery

Bidders assume all risks for timely, properly submitted deliveries. A Bidder is strongly encouraged to arrange for delivery of bids to OGS prior to the date of the bid opening. Late bids shall be rejected except as provided in Appendix B, §6 *Late Bids/Rejected.* **E-mail or fax bid submissions are NOT acceptable and shall not be considered.**

Bid envelopes and packages
All bids must have a label on the outside of the box or package itemizing the following information:

1. BID ENCLOSED (preferably bold, large print, all capital letters)
2. Group Number (Group 20060)
3. Bid number (IFB #22868)
4. Bid Opening Date and Time (December 23, 2014 at 11:00 AM)
5. The number of boxes or packages (i.e., 1 of 2; 2 of 2)

Failure to complete all information on the bid envelope and/or packages may necessitate the premature opening of the bid and may compromise confidentiality. See Appendix B, §8 *Bid Submission.* Bids shall be delivered to:

State of New York Executive Department
Office of General Services
New York State Procurement
Corning Tower - 38th Floor Reception Desk
Empire State Plaza
Albany, NY 12242

Hand Deliveries
Bidders must allow extra time to comply with the building access procedures in effect at the Empire State Plaza when hand delivering bids or using deliveries by independent courier services. Bidders assume all risks for timely, properly submitted deliveries.

Important Building Access Procedures
To access the Corning Tower, all visitors must check in by presenting photo identification at the Information Desk. A Bidder attending bid openings is encouraged to pre-register for building access by contacting the NYSPro receptionist at 518-474-6262 at least 24 hours prior to the bid opening. Visitors who are registered can check in directly with the Security Desk. Visitors who are not pre-registered will be directed to a designated phone to call the NYSPro Receptionist. The Receptionist will register the visitor at that time but delays may occur. Vendors who intend to deliver bids or conduct NYSPro business should allow extra time to comply with these procedures. Building Access procedures may change or be modified at any time. **Note:** Bids not received within NYSPro, or the OGS Mailroom, by the time and date shown on the front page of the bid document will be considered late.

3.9 Dispute Resolution Policy

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the NYSPro Dispute Resolution Process found at: http://nyspro.ogs.ny.gov/sites/default/files/uploaded/Dispute%20Policy%209-2014.pdf

3.10 Electronic Bid Opening Results

NYSPro posts bid results on the OGS/NYSPro web page. The web page makes available information about the list of Bidders that responded to this IFB. The Bid Opening Results Page is available at: http://www.ogs.ny.gov/purchase/bidresults/bidresults.asp.

3.11 Debriefing

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

3.12 New York State Procurement Rights

New York State reserves the right to:

1. Reject any or all proposals received in response to the IFB;
2. Withdraw the IFB at any time, at the sole discretion of the Agency;
3. Make an award under the IFB in whole or in part;
4. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;
5. Seek clarifications and revisions of IFB;
6. Amend the IFB requirements prior to the bid opening to correct errors or oversights, or to supply additional information, as it becomes available;
7. Direct Bidders, prior to the bid opening, to submit proposal modifications addressing subsequent IFB amendments;
8. Change any of the schedule dates with notification through the Bidder Notification Service and/or NYS Contract Reporter;
9. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Bidders;
10. Waive any requirements that are not material;
11. Utilize any and all ideas submitted in the bids received;
12. Adopt all or any part of a Bidder's proposal in selecting the optimum configuration;
13. Negotiate with the Bidder responding to this IFB within the IFB requirements to serve the best interests of the State. This includes requesting clarifications of any or all Bidders' proposals;
14. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's proposal and/or to determine a Bidder's compliance with the requirements of the IFB;
15. If an incorrect reference/parameter/component/product/etc. is stated by the State or by the Bidder, the evident parameter/component/product shall prevail; the proper alternative or corrected parameter/model/code number(s) shall be considered;
16. Have the flexibility to consider bids with minor deviations or technicalities and to waive minor deviations or technicalities that may be consistent with the intent and scope of the solicitation. This flexibility may permit a reasonable outcome in cases where the results of a fair, competitive process are clear but the award of a Contract is threatened due to a minor technicality or a minor deviation, and reject an obviously unbalanced bid as determined by the State or offer the bidder the opportunity to provide supplemental information or clarify its proposal, including the opportunity to explain or justify the balance, realism and/or reasonableness of its pricing.

SECTION 4: METHOD OF AWARD

4.1 Method of Award

This IFB contains a total of two (2) Lots, which are specified in Table 1 below and described in further detail in Attachment 1 – *Price Pages (Revised December 12, 2014)*. Award shall be made by item within each Lot with the potential of multiple awardees in each. A Bidder may bid on one or both Lots and may bid on as few or as many items in each Lot. Bidders shall offer discounts and pricing for any or all of the applicable sub-item categories in each Lot. Only Ancillary Services offered in conjunction with books and/or other library materials will be considered for award. Ancillary Services shall not be awarded separately. Ancillary services may be offered but will not be considered during the method of award. Bidders who have achieved a minimum average annual sales volume of $1,000,000.00 or more annually for the past 36 months under Group 20060, Award 21274 will have their bids evaluated first and a partial award may be made on this basis in the best interests of the State.

Because of the nature of the commodities involved, the availability or non-availability of materials, etc., and recognizing that no one dealer, jobber, or publisher will be able to supply all of the materials to be covered by the resultant Contract award, award may be made to more than one Bidder per Lot. Award shall be made to responsive and responsible Bidders offering favorable pricing and meeting the bid specifications and performance requirements. Optional discounts, services, etc., may be considered in determining award.

At the time of the bid opening, where possible, Bidder should provide copies of at least one governmental and/or municipal contract (GSA, WSCA, other State, etc.) that shows discount structure, monetary amounts for Ancillary Services, and FOB point. The State reserves the right to require documentation to support the reasonableness of the prices offered.

Table 1: List of Lots

Lot	Lot Description
1	Printed Publications
2	Non-Print and Other

4.2 Notification of Award

The successful Bidder shall be advised by OGS in accordance with Appendix B, §26 *Contract Creation/Execution.* Tentative award of the Contract shall consist of written notice to that effect by OGS to the successful Bidder.

In the case where a Bidder is awarded more than one Lot, a single Contract will be issued which includes terms for all awarded Lots.

SECTION 5: TERMS AND CONDITIONS

5.1 Product Requirements

Bidder shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at http://www.lbibinders.org/. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Bidder shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

Bidders shall identify, define, and provide a short description of the service(s) offered. Also, Bidders shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

5.2 Price

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User's receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See "Delivery" clause for rush order charges.

Upon mutual agreement, delivery locations may be expanded per the "Extension of Use" clause.

Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Bidder. Discounts shall be applied to publishers' List Prices. A range of discounts and monetary amounts may be offered; however, the Bidder must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers' List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

For the purpose of this bid opening, "monetary" amounts are defined as charges included under Lot 1, Item 18 and Lot 2, Item 18, "Net Handling Charges," and "OTHER ANCILLARY SERVICES". All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series ID: CUUR0000SA0L1,CUUS0000SA0L1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by NYSPro.

5.3 Contract Period and Renewal

The Contract(s) shall commence on or about January 1, 2015 after all necessary approvals by both parties, and shall become effective upon mailing of the final Contract Award Notice by OGS (see Appendix B §26 *Contract Creation/Execution*). The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

5.4 Cancellation for Convenience

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, *Termination For Convenience*).

5.5 Short Term Extension

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

5.6 Periodic Recruitment

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of $1,000,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. NYSPro reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between NYSPro and the Contractor.

5.7 Contract Advertising

In addition to the requirements set forth in Appendix B, §13 *Advertising Results*, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by NYSPro prior to issuance.

5.8 Minimum Order

Minimum order shall be $100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

5.9 Discounts

Bidder should offer any and all types of discounts, rebates, special pricing, etcetera that will result in a reduced pricing to Authorized Users. Additional discounts are encouraged and offered discounts may be considered in determining award. Bidders may offer discounts based on a single copy of a title, multiple orders of a single title, or mixed title books to one location. Bidder shall determine volume discounts based on total dollars purchased. Bidders may also offer discounts for electronic access ordering, for use of the state procurement card, and for prepayment plans, deposit accounts, and approved plans for Authorized Users legally empowered to use them.

5.10 New York State Procurement Card

See "Procurement Card" in Appendix B, OGS General Specifications. All Bidders shall indicate if they will accept the NYS Purchasing Card for orders not to exceed $85,000 ((see Attachment 4 – *Bid Submittal Checklist and General Questions (Revised December 12, 2014)*).

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

5.11 Orders

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as required. If offering a web-based ordering system, the Bidder represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Bidder further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Bidder shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Bidder in the event New York State learns of such claim by a third party.

The web-based ordering system* shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

Contractor Name and Address
Agency/Facility/Political Subdivision, etc.
Contract Number
Purchase Order/Requisition Numbers
Contact (individual placing order)
Publisher, Description, ISBN
Net Price
Extended and Total Amounts

*Comparable systems meeting the intent of the specifications may be considered.

If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Bidder must demonstrate its system at an Albany, NY area location designated by the State.

5.12 Internet Websites

The State encourages successful Bidders to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by the New York State Procurement in accordance with any terms included in this bid prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

5.13 Purchase Orders and Invoicing

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

5.13.1 Purchase Orders

Purchase orders are to include the following information:

A. Contract number;
B. Contractor name;
C. Contract item number and/or description;
D. International Standard Book Number (ISBN); and
E. Calculation of NYS net Contract price.

5.13.2 Invoices

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice **all** of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

A. Contract number;
B. NYS Vendor Identification number;
C. Contract item number and description;
D. Purchase Order number; and
E. Line item breakdown of all charges to include List Price, percentage discount or monetary charge and Net Price of each product/service;

Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item.

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 accounting systems in use by different Authorized Users.

5.14 Delivery

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from the Office of General Services, New York State Procurement.

5.15 Backordering

Backordering shall be permissible only when authorized by the ordering Authorizes User. Contractor must complete orders within the guaranteed delivery period offered.

5.16 Packing Slips

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

5.17 Labeling

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

5.18 Substitutions

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

5.19 Product Returns Because of Quality Problems

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

5.20 Product Returns Due to Authorized User Error

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee--not to exceed ten percent--for product returns due to Authorized User error.

5.21 Cancellation of Purchase Orders

Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

5.22 Status Report

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reasons.

5.23 Contract Payments

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the *Delivery* section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in Section 5.13, *Purchase Orders and Invoicing.*

5.24 Contract Administrator

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Information regarding the Contract Administrator shall be set forth in Attachment 4 – *Bid Submittal Checklist & General Questions (Revised December 12, 2014).*

5.25 Toll-Free Number

A Bidder must provide a toll-free telephone number for the Authorized User usage. Bidder must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays. If Bidder does not currently maintain a toll-free number, the Bidder must be willing to establish either one prior to award of Contract.

5.26 Insurance Requirements

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7 – *Insurance Requirements*. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices. Bidder shall affirm its agreement to obtain all required Contract-specific insurance in Attachment 4 – *Bid Submittal Checklist & General Questions (Revised December 12, 2014).*

5.27 Report of Contract Usage

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6 – *Administrative Reports*. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

5.28 Authorized User Sales Reports

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

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

5.29.1 Policy Statement

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

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

5.29.2 Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over $25,000 for the

construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

The Bidder further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

Further, pursuant to 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 and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), 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.

5.29.3 Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises (MWBEs)

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at: http://esd.ny.gov/MWBE/Certification.html

5.30 New York State Statewide Financial Systems (SFS)

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Bidder agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: http://www.sfs.ny.gov/.

5.31 Use of Recycled or Remanufactured Materials

New York State supports and encourages vendors 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 IFB. 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, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials.*

5.32 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. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

5.33 Surplus/Take-Back/Recycling

I. 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 take-back, recycling, or other options for disposition of equipment that is still in operable condition.

II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/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 Section III below for specific requirements governing electronic equipment recycling.

III. 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.

IV. If a Contractor offers a take-back/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.

5.34 Environmental Attributes and NYS Executive Order Number 4

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at http://ogs.ny.gov/EO/4/Default.asp. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

5.35 Preferred Source Products

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a

particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

5.36 New York State Vendor File Registration

Prior to being awarded a Contract pursuant to this IFB, the Bidder(s) and any Authorized Resellers who accept payment directly from the State, must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, unique New York State ten-digit vendor identification numbers will be assigned to your company and to each of your Authorized Resellers (if any) for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York.

If Bidder is already registered in the New York State Vendor File, the vendor must enter the vendor's ten-digit Vendor Id number on the first page of this bid document. Authorized Resellers already registered should list the ten-digit Vendor Id number along with the Authorized Reseller information.

If the Bidder is not currently registered in the Vendor File, the Bidder must request assignment of a Vendor Id number from OGS. Complete the OSC Substitute W-9 Form http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf and submit the form to OGS in advance of bid submittal. Please send this document to the Designated Contact in the IFB. In addition, if an Authorized Reseller(s) is to be used that does not have a Vendor ID, an OSC Substitute W-9 form http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf should be completed by each designated Authorized Reseller and submitted to OGS. The OGS will initiate the vendor registration process for all Bidders and their Authorized Resellers. Once the process is initiated, registrants will receive an e-mail identifying their unique ten-digit Vendor ID and instructions on how to enroll in the online Vendor Self-Service application.

For more information on the vendor file please visit the following website:
http://www.osc.state.ny.us/vendor_management

5.37 New York State Vendor Responsibility Questionnaire For-Profit Business Entity

OGS conducts a review of prospective Contractors ("Bidders") to provide reasonable assurances that the Bidder is responsive and responsible. A Questionnaire is used for non-construction Contracts and is designed to provide information to assess a Bidder's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a bid, Bidder agrees to fully and accurately complete the "Questionnaire." The Bidder further agrees that if it is found by the State that the Bidder's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, OGS may terminate the Contract. The Bidder acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Bidder is responsible, and that the State will be relying upon the Bidder's responses to the Questionnaire, in addition to all other information the State may obtain from other sources, when making its responsibility determination.

OGS recommends each Bidder file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller's (OSC) web site,
http://www.osc.state.ny.us./vendrep/vendor_index.htm or to enroll, go directly to the VendRep System online at https://portal.osc.state.ny.us.

OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at http://www.osc.state.ny.us/portal/contactbuss.htm. Bidders opting to complete the paper questionnaire can access this form and associated definitions via the OSC web site at http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

In order to assist the State in determining the responsibility of the Bidder prior to Contract Award, the Bidder must complete and certify (or recertify) the Questionnaire no more than six (6) months prior to the bid due date. A Bidder's Questionnaire cannot be viewed by OGS until the Bidder has certified the Questionnaire. It is recommended that all

Bidders become familiar with all of the requirements of the Questionnaire in advance of the bid opening to provide sufficient time to complete the Questionnaire.

***NOTE:* A New York State Vendor File Registry Number is required to access the VendRep site** *(see previous clause).* **Bidders who do not have an assigned NYS Vendor File Registration Number must submit a hard copy paper questionnaire with their bid.**

The Bidder agrees that if it is awarded a Contract the following shall apply:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, 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 or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when 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. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor's responses to the 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 of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee 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

5.38 New York State Tax Law §5-a

Tax Law §5-a requires certain Contractors awarded state Contracts for commodities, services and technology valued at more than $100,000 to certify to NYS Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State is in excess of $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded $300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

A Contractor is required to file the completed and notarized Form ST-220-CA with OGS certifying that the Contractor filed the ST-220-TD with DTF. Note: NYS DTF receives the completed Form ST-220-TD, not OGS. OGS ONLY receives the Form ST-220-CA. Form ST-220-CA must be filed with the bid and submitted to the procuring covered Agency certifying that the Contractor filed the ST-220-TD with DTF. Contractor should complete and return the certification forms within five (5) business days of request (if the forms are not completed and returned with bid submission). Failure to make either of these filings may render a Contractor non-responsive and non-responsible. Contractor shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Website links to the Contractor certification forms and instructions are provided below. Form ST-220-TD must be filed with and returned directly to DTF and can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the Contractor, its affiliate(s), or its subcontractor(s), a new Form ST-220-TD must be filed with DTF.

Form ST-220-CA must be submitted to OGS. This form provides the required certification that the Contractor filed the ST-220-TD with DTF. This form can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

Vendors may call DTF at 518-485-2889 for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with DTF. For additional information and frequently asked questions, please refer to the DTF web site: http://www.tax.ny.gov/.

5.39 New York State Required Certifications

A Bidder is required to submit the signed New York State Required Certifications (Attachment 3 - *New York State Required Certifications*) with its bid. Failure to submit these documents may result in bid being considered non-responsive and may result in a bid being REJECTED.

5.40 Overlapping Contract Items

Products/services available in the resulting Contract may also be available from other New York State Contracts. Contract 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.

5.41 "OGS OR LESS" Guidelines

Purchases of the products included in the IFB and resulting 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 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 Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

5.42 Note to Authorized Users

When placing Purchase Orders under the Contract(s), the Authorized User should be familiar with and follow the terms and conditions governing its use. The Authorized User is accountable and responsible for compliance with the requirements of public procurement processes. The Authorized User, when purchasing from OGS Contracts, should hold the Contractor accountable for Contract compliance and meeting the Contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, Authorized Users are encouraged to seek improved pricing whenever possible. Authorized Users have the responsibility to document purchases which should include:

- statement of need and associated requirements;
- obtaining all necessary prior approvals;
- a summary of the Contract alternatives considered for the purchase; and
- the reason(s) supporting the resulting purchase (e.g., show that basis for the selection among multiple Contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

5.43 Non-State Agencies Participation in Centralized Contracts

New York State political subdivisions and others authorized by New York State law may participate in 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 § 27 *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. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS New York State Procurement's Customer Services at (518) 474-6717.

5.44 Note to All Non-State Agencies and Bidders

All such participating non-State agencies and Bidders understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

5.45 Extension of Use

Any Contract resulting from this IFB may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

5.46 Emergency Purchasing

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

5.47 Contractor Performance

Authorized Users should notify the NYSPro Contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to NYSPro.

5.48 Mercury Added Consumer Products

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

5.49 Reservation

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than $75,000.00.

5.50 Americans with Disabilities Act (ADA)

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Bidders are

required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

Although it is not mandatory for Bidders to have this equipment in order to receive an award, it is necessary to identify any such equipment offered they have which falls into the above category.

5.51 Additional Requirements

A. NO DRUGS OR ALCOHOL
For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

B. TRAFFIC INFRACTIONS
The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

5.52 Contract Modification Procedure

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

5.53 Appendix A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, attached hereto, is hereby expressly made a part of this bid document as fully as if set forth at length herein. **Please retain this document for future reference and do not return to OGS as part of the bid submission.**

5.54 Appendix B

Appendix B, *Office of General Services General Specifications*, dated June 2014, attached hereto, is hereby expressly made a part of this Bid Document as fully as if set forth at length herein and shall govern any situations not covered by this bid document or Appendix A. **Please retain this document for future reference and do not return to OGS as part of the bid submission.**

5.55 Appendix C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), attached hereto, is hereby expressly made a part of this Bid Document as fully as if set forth at length herein.

5.56 Appendix D

Appendix D, *Contract Modification Procedure*, attached hereto, is hereby expressly made a part of this Bid Document as fully as if set forth at length herein.

5.57 Additional License Agreements

OGS will NOT review or approve "click through", "shrink wrap" or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if "click through", "shrink wrap" or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User's counsel, it is the responsibility of such Authorized User's counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

January 2014

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

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

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

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

any State approved sums due and owing for work done upon the project.

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

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

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

10. **RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

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

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

12. **EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

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

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

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

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

the contract, the Department of Civil Service and the State Comptroller.

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

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.
To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

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

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

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

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

APPENDIX B

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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. **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.

b. **AUTHORIZED USER(S)** Authorized User shall have the meaning set forth in New York 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.

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

d. **CONTRACT** The writing(s) which contain the agreement of the Commissioner and the bidder/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 specifications for a Product or a particular scope of work are described and defined to meet the needs of one or more Authorized User(s).

2. **Centralized Contracts** Single or multiple award Contracts where the specifications for a Product or general scope of work are described and defined by the Office of General Services 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 Contractor(s) without further competition or Mini-Bid unless otherwise required by the Bid Specifications or Contract Award Notification.

3. **Back-Drop Contracts** Multiple award Centralized Contracts where the Office of General Services defines the specifications 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 Bid Specifications. Selection of a Contractor(s) from among Back-Drop contract holders for an actual Product, project or particular scope of work may subsequently be made on a single or sole source basis, or on the basis of a Mini-Bid among qualified Back-Drop contract holders, or such other method as set forth in the Bid Document.

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 state(s) which is adopted and extended for use by the OGS Commissioner in accordance with the requirements of the State Finance Law.

5. **Contract Letter** A letter to the successful Bidder(s) 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 Contractor should not take any action with respect to actual Contract deliveries except on the basis of Purchase Orders sent from Authorized User(s).

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

f. **CONTRACTOR** Any successful Bidder(s) to whom a Contract has been awarded by the Commissioner.

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

h. **EMERGENCY** An urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

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

j. **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.

k. **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.

l. **GROUP** A classification of Product, services or technology which is designated by OGS.

m. **INVITATION FOR BIDS (IFB)** A type of Bid Document which 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(s).

n. **LICENSED SOFTWARE** Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g., patches, fixes, PTFs, programs, code or data conversion, or custom programming).

o. **LICENSEE(S)** One or more Authorized Users who acquire 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(s)" shall be deemed to refer separately to the individual Authorized User(s) 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.

p. 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.

q. LICENSOR A Contractor who transfers rights in proprietary Product to Authorized Users in accordance with the rights and obligations specified in the Contract.

r. NEW PRODUCT RELEASES (Product Revisions) Any commercially released revisions to the licensed version of a Product as may be generally offered and available to Authorized Users. New releases involve a substantial revision of functionality from a previously released version of the Product.

s. OGS The New York State Office of General Services.

t. PRODUCT A deliverable under any Bid or Contract which may include commodities, services and/or technology. The term "Product" includes Licensed Software.

u. PROPRIETARY Protected by secrecy, patent, copyright or trademark against commercial competition.

v. PURCHASE ORDER The Authorized User's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, electronic Purchase Order, or other authorized instrument).

w. REQUEST FOR PROPOSALS (RFP) A type of Bid Document 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 the responsive and responsible Bidder(s).

x. REQUEST FOR QUOTATION (RFQ) A type of Bid Document that can be used when a formal Bid opening is not required (e.g., discretionary, sole source, single source or emergency purchases).

y. 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.

z. RESPONSIVE BIDDER A Bidder meeting the specifications or requirements prescribed in the Bid Document or solicitation, as determined by the OGS Commissioner.

aa. 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.

bb. SITE The location (street address) where Product will be executed or services delivered.

cc. SOLE SOURCE A procurement where only one Bidder is capable of supplying the required Product.

dd. 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.

ee. STATE State of New York.

ff. SUBCONTRACTOR Any individual or other 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.

gg. 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.

hh. 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.

BID SUBMISSION

3. INTERNATIONAL BIDDING All offers (tenders), and 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 offers (tenders) 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. BID SUBMISSION All Bids are to be packaged, sealed and submitted to the location stated in the Bid Specifications. Bidders are solely responsible for timely delivery of their Bids to the location set forth in the Bid Specifications prior to the stated Bid opening date/time.

A Bid return envelope, if provided with the Bid Specifications, should be used with the Bid sealed inside. If the Bid response does not fit into the envelope, the Bid envelope should be attached to the outside of the sealed box or package with the Bid inside. If using a commercial delivery company that requires use of their shipping package or envelope, Bidder's sealed Bid, labeled as detailed below, should be placed within the shipper's sealed envelope to ensure that the Bid is not prematurely opened.

All Bids must have a label on the outside of the package or shipping container outlining the following information:

"**BID ENCLOSED** (bold print, all capitals)

- Group Number

- IFB or RFP Number
- Bid Submission date and time"

In the event that a Bidder fails to provide such information on the return Bid envelope or shipping material, the receiving entity reserves the right to open the shipping package or envelope to determine the proper Bid number or Group Number, and the date and time of Bid opening. Bidder shall have no claim against the receiving entity arising from such opening and such opening shall not affect the validity of the Bid or the procurement.

Bidder assumes all risk of late delivery associated with the Bid not being identified, packaged or labeled in accordance with the foregoing requirements.

All Bids must be signed by a person authorized to commit the Bidder to the terms of the Bid Documents and the content of the Bid (offer).

6. **LATE BIDS REJECTED** For purposes of Bid openings held and conducted by OGS, a Bid must be received in such place as may be designated in the Bid Documents or, if no place is specified, in the OGS Mailroom located in the Empire State Plaza, Albany, New York 12242, at or before the date and time established in the Bid Specifications for the Bid opening. For purposes of Bid openings held and conducted by Authorized Users other than OGS, the term late Bid is defined as a Bid not received in the location established in the Bid Specifications at or before the date and time specified for the Bid opening.

Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Bid Documents are received or, (ii) in the case of a multiple award, an insufficient number of timely Bids were received to satisfy the multiple award; and acceptance of the late Bid is in the best interests of the Authorized Users. Bids submitted for continuous or periodic recruitment contract awards must meet the submission requirements associated with their specifications. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the Authorized User, shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance, shall not excuse late Bid submissions. Determinations relative to Bid timeliness shall be at the sole discretion of the Commissioner.

7. **BID CONTENTS** Bids must be complete and legible. All Bids must be signed. All information required by the Bid Specifications must be supplied by the Bidder on the forms or in the format specified. No alteration, erasure or addition is to be made to the Bid Documents. Changes may be ignored by the Commissioner or may be grounds for rejection of the Bid. Changes, corrections and/or use of white-out in the Bid or Bidder's response portion of the Bid Document must be initialed by an authorized representative of the Bidder. Bidders are cautioned to verify their Bids before submission, as amendments to Bids or requests for withdrawal of Bids received by the Commissioner after the time specified for the Bid opening may not be considered.

8. **EXTRANEOUS TERMS** Bids must conform to the terms set forth in the Bid Documents, as extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid.

Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and

b. The writing must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and

c. The Bidder shall enumerate the proposed addition, deletion, counter-offer, deviation, or modification from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Commissioner or Authorized User expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

9. **CONFIDENTIAL/TRADE SECRET MATERIALS**

a. 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. 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. 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 State'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 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 as to its agents, Subcontractors, officers, distributors, resellers or employees regarding the obligations arising under this clause to insure such confidentiality.

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

a. PREVAILING WAGE RATE APPLICABLE TO BID SUBMISSIONS A copy of the applicable prevailing wage rates to be paid or provided are annexed to the Bid Documents. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., 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 rate(s) 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 as required by 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 New York 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 projects must submit monthly payroll transcripts to the Authorized User that has prepared or directs the preparation of the plans and specifications for a public works project, as set forth in the Bid Specifications. For Mini-Bid solicitations, the payroll records must be submitted to the entity preparing the agency Mini-Bid project specification. For "agency specific" Bids, the payroll records should be submitted to the entity issuing the purchase order. For all other OGS Centralized Contracts, such records should be submitted to the individual agency issuing the purchase order(s) for the work. Upon mutual agreement of the Contractor and the Authorized User, the form of submission may be submitted in a specified disk format acceptable to the Department of Labor provided: 1) the Contractor/Subcontractor retains the original records; and, (2) an original signed letter by a duly authorized individual of the Contractor or Subcontractor attesting to the truth and accuracy of the records accompanies the disk. 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.

11. TAXES
a. Unless otherwise specified in the 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.

12. EXPENSES PRIOR TO CONTRACT EXECUTION The Commissioner and any Authorized User(s) are not liable for any costs incurred by a Vendor, 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.

13. ADVERTISING RESULTS The prior written approval of the Commissioner is required in order for results of the Bid to be used by the Contractor as part of any commercial advertising. The Contractor

shall also obtain the prior written approval of the Commissioner relative to the Bid or Contract for press or other media releases.

14. PRODUCT REFERENCES

a. "Or Equal" In all 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 Bid Specifications and the written description of the Products which cannot be reconciled, with respect to such discrepancy, then the written description shall prevail.

15. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS Upon the conditions specified in the Bid Specifications 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 Bid Specifications. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product and unless such use is precluded due to health, welfare, safety requirements or by the Bid Specifications. Where such use is not practical, suitable, or permitted by the Bid Specifications, 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.

16. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS Bids offering Products that are manufactured or produced in public institutions will be rejected.

17. PRICING

a. Unit Pricing If required by the Bid Specifications, 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 Bid. 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 Bid Specifications, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Bid Specifications, subject to the cash discount.

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. Best Pricing Offer During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor 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, at the discretion of the Commissioner, shall be immediately reduced to the lower price.

g. Specific price decreases:

(i) GSA Changes: Where NYS Net Prices are 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 NYS Net Prices are 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 to its customers generally or to similarly situated government customers 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 Price 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 NYS Net Price 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 Bid Specifications, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order(s) 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.

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

18. DRAWINGS

a. Drawings Submitted With Bid When the Bid Specifications require the Bidder to furnish drawings and/or plans, such drawings

and/or plans shall conform to the mandates of the Bid Documents and shall, when approved by the Commissioner, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

b. Drawings Submitted During the Contract Term Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Authorized User's representative.

c. Accuracy of Drawings Submitted All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of Product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing Product, services or installation, or carrying out any other requirements of the intended scope of work.

19. SITE INSPECTION Where a site inspection is required by the Bid Specifications or Project Definition, Bidder shall be required to inspect the site, including environmental or other conditions for pre-existing deficiencies that may affect the installed Product, equipment, or environment or services to be provided and, which 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 which 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 complete the delivery and installation of the required Product or provide the requested service.

20. PROCUREMENT CARD The State has entered into an agreement for purchasing card services. The Purchasing Card enables Authorized Users to make authorized purchases directly from a Contractor without processing Purchase Orders or Purchase Authorizations. Purchasing Cards are issued to selected employees authorized to purchase for the Authorized User and having direct contact with Contractors. Cardholders can make purchases directly from any Contractor that accepts the Purchasing Card.

The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased Products have been shipped or services performed. Unless the cardholder requests correction or replacement of a defective or faulty Product in accordance with other Contract requirements, the Contractor shall immediately credit a cardholder's account for Products returned as defective or faulty.

21. SAMPLES

a. Standard Samples Bid Specifications may indicate that the Product to be purchased must be equal to a standard sample on display in a place designated by the Commissioner and such sample will be made available to the Bidder for examination prior to the opening date. Failure by the Bidder to examine such sample shall not entitle the Bidder to any relief from the conditions imposed by the Bid Specifications.

b. Bidder Supplied Samples The Commissioner reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of the Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Bid or Contract reference.

A sample may be held by the Commissioner during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period, the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct the Commissioner as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

c. Enhanced Samples When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, the Commissioner may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

d. Conformance with Samples Submission of a sample (whether or not such sample is tested by, or for, the Commissioner) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Bid Specifications. If in the judgment of the Commissioner the sample or Product submitted is not in accordance with the specifications or testing requirements prescribed in the Bid Specifications, the Commissioner may reject the Bid. If an award has been made, the Commissioner may cancel the Contract at the expense of the Contractor.

e. Testing All samples are subject to tests in the manner and place designated by the Commissioner, either prior to or after Contract award. Unless otherwise stated in the Bid Specifications, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fail to meet Contract requirements may be at the expense of the Contractor.

f. Requests For Samples By Authorized Users Requests for samples by Authorized Users require the consent of the Contractor. Where Contractor refuses to furnish a sample, Authorized User may, in its sole discretion, make a determination on the performance capability of the Product or on the issue in question.

BID EVALUATION

22. 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/her sole discretion, may accept or reject illegible, incomplete or vague Bids and his/her 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.

23. 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.

24. 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 Bid Specifications. In the event such right is exercised, the lowest responsible Bidder meeting Bid Specifications 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.

25. TIMEFRAME FOR OFFERS The Commissioner reserves the right to make awards within sixty days after the date of the Bid opening or such other period of time as set forth in the Bid Documents, during which period, Bids must remain firm and cannot be withdrawn. Where an award is not made within the sixty day period or other time specified as set forth in the Bid Documents, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to the Commissioner written notice of the withdrawal of its Bid.

TERMS & CONDITIONS

26. 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 Bid Specifications, a Contract shall be deemed executed and created with the successful Bidder(s) 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.

27. PARTICIPATION IN CENTRALIZED CONTRACTS

a. Agencies All State Agencies may utilize and purchase under any Centralized Contract let by the Commissioner, unless the Bid Documents limit 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 Bid Specifications 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. Contractors are encouraged to voluntarily extend service Contracts to those additional entities authorized to utilize commodity Contracts under Section 163(3)(a)(iv) of the State Finance 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 save 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 or services 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.

28. MODIFICATION OF CONTRACT TERMS The terms and conditions set forth in the Contract shall govern all transactions by Authorized User(s) 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 Authorized User(s) 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(s) and Commissioner by the Contractor at the time of such offer.

Other than where such terms are more advantageous for the Authorized User(s) 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 Authorized User(s) 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.

29. SCOPE CHANGES The Commissioner reserves the right to require, by written order, changes to the scope of the Contract, by altering, adding to or deducting from the Bid Specifications, such changes to be within 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 thirty 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 proposal. Failure to agree to any adjustment shall be a dispute under the Disputes clause, provided, however, that nothing in this clause shall excuse the Contractor from proceeding with the Contract as changed.

30. 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.

31. 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/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(s), as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or 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.

32. 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 when placed in the mail or electronically transmitted prior to the termination of the Contract period, addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification.

All Purchase Orders issued pursuant to Contracts let by the Commissioner must bear 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.

33. 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 thirty 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. Failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Commissioner's discretion, the Contract.

34. WEEKEND AND HOLIDAY DELIVERIES Unless otherwise specified in the Bid Specifications 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.

35. 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 Bid Specifications, 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 personnel authorized to accept delivery on behalf of the Authorized User. Any losses resulting from the Contractor's failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

36. TITLE AND RISK OF LOSS Notwithstanding the form of shipment, title or other property interest, risk of loss 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 Bid Specifications 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 Bid Specifications or Contract terms and conditions, may be rejected or accepted on an adjusted price basis, as determined by the Commissioner.

37. RE-WEIGHING PRODUCT Deliveries are subject to re-weighing at the point of destination by the Authorized User. If shrinkage occurs which exceeds that normally allowable in the trade, the Authorized User shall have the option to require delivery of the difference in quantity or to reduce the payment accordingly. Such option shall be exercised in writing by the Authorized User.

38. PRODUCT SUBSTITUTION In the event a specified manufacturer's 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.

39. 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.

40. 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(s) 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.

41. REPAIRED OR REPLACED PARTS / 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.

42. EMPLOYEES, SUBCONTRACTORS & AGENTS All employees, Subcontractors or agents 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 Bid Specifications or the Bid Documents, whichever is more restrictive, and must comply with all security and administrative requirements of the Authorized User. The Commissioner reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on 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 terms. The Commissioner reserves the right to reject and/or bar from any facility for cause any employee, Subcontractor, or agents of the Contractor.

43. ASSIGNMENT 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, notwithstanding anything in Section 138 of the State Finance Law to the contrary, any approval required thereunder shall not be unreasonably withheld, conditioned, delayed or denied. 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 assignment(s) with the 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 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.

44. 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.

45. PERFORMANCE / BID BOND The Commissioner reserves the right to require a Bidder or Contractor to furnish, without additional cost, a performance, payment or Bid bond, negotiable

irrevocable letter of credit, or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by the Commissioner.

46. SUSPENSION OF WORK The Commissioner, in his/her sole discretion, reserves the right to suspend any or all activities under this 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.

47. TERMINATION

a. For Cause: For a material breach that remains uncured for more than thirty calendar days or other specified period after written notice to the Contractor, the Contract or Purchase Order may be terminated by the Commissioner or Authorized User respectively, at the Contractor's expense where Contractor becomes unable or incapable of performing, or meeting any requirements or qualifications set forth in the Contract, or for non-performance, or upon a determination that Contractor is non-responsible. 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: By written notice, this Contract may be terminated at any time by the Commissioner for convenience upon sixty calendar days written notice or other specified period 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 provide any outstanding deliverables.

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/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/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 or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee 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. For refusal to testify, sign a waiver of immunity or answer questions

The Commissioner reserves the right in accordance with State Finance Law §139-a, to terminate the contract in the event it is found that a member, partner, director or officer of Contractor refused, when called before a grand jury, head of a state department, temporary state commission or other state agency, or the organized crime task force in the department of law, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract. Upon such finding, the Commissioner may exercise his/her termination right by providing written notification to the Contractor.

48. 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 thirty (30) days, the Parties shall jointly decide on an appropriate course of action that will permit fulfillment of the Parties' objectives hereunder.

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/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. Failure of the Contractor to agree to any adjustment shall be a dispute under the Disputes clause; provided however, that nothing in this clause shall excuse the Contractor from performing in accordance with the Contract as changed.

49. 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. Submission of an invoice and payment thereof shall not preclude the Commissioner from requesting reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

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.

50. 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 thirty 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 shipments of Product or provision of services 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 ten 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 service an Authorized User may constitute a breach of the Contract, and the Authorized User may thereafter seek any remedy available at law or equity.

51. PROMPT PAYMENTS

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

may be made in accordance with State Finance Law §§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 thirty 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 Agencies. Neither expressly nor by any implication is the statute applicable to Non-State 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.

52. REMEDIES FOR BREACH It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

a. Cover/Substitute Performance In the event of Contractor's material, uncured breach, the Commissioner may, with or without formally Bidding: (i) Purchase from other sources; or (ii) If the Commissioner is unsuccessful after making reasonable attempts, under the circumstances then-existing, to timely obtain acceptable service or acquire replacement Product of equal or comparable quality, the Commissioner may acquire acceptable replacement service or Product of lesser or greater quality.

Such purchases may be deducted from the Contract quantity without penalty or liability to the State. The Commissioner agrees that Authorized Users shall accept allocated performance or deliveries during a period where Contractor is making good faith efforts to cure a material breach.

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 Commissioner. Should Contractor and the Commissioner fail to agree upon the question of "materiality" in an instance of non-performance, such failure to agree shall be a dispute under the Disputes clause.

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 its 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 services, and/or 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 awarded by a court of competent jurisdiction, 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 substitute 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.

53. 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.

54. 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 Material 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 Material Safety Data Sheet must be provided to and approved by the Authorized User representative.

55. INDEPENDENT CONTRACTOR It is understood and agreed that the legal status of the Contractor, its 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.

56. SECURITY Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Authorized User(s) in performance of the Contract including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

57. 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.

58. CONTRACT TERM - RENEWAL In addition to any stated renewal periods in the Contract, any Contract or unit portion thereof let by the Commissioner may be extended by the Commissioner for an additional period(s) of up to one year with the written concurrence of the Contractor and Comptroller. Such extension may be exercised on a month-to-month basis or in other stated periods of time during the one year extension.

59. WARRANTIES

a. Product Performance Where Contractor, Product manufacturer or service provider generally offers additional or more advantageous warranties than set forth below, Contractor shall offer or pass through any such warranties to Authorized Users.

In addition, Contractor hereby warrants and represents that the Products acquired by the Authorized User under the terms and conditions of this Contract conform to the manufacturer's specifications, performance standards and documentation, and the

documentation fully describes the proper procedure for using the Products.

Contractor further warrants and represents that Products, components or deliverables specified and furnished by or through Contractor shall individually, and where specified and furnished as a system, be free from defects in material and workmanship and will conform with all requirements of the Contract for the warranty period, or for a minimum of one (1) year from the date of acceptance, whichever is longer ("Project warranty period").

Unless recycled 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 attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

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) awarded by a court of competent jurisdiction arising from any breach of Contractor's warranties as set forth herein.

c. Product Warranty for Deliverables During the Project warranty period, defects in the materials or workmanship of components or deliverables specified and furnished by or through Contractor shall be repaired or replaced by Contractor at no cost or expense to the Authorized User. Contractor shall extend the Project warranty period for individual component(s), or for the system as a whole, as applicable, by the cumulative period(s) of time, after notification, during which an individual component or the system requires servicing or replacement (down time) or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Where Contractor, the Independent Software Vendor (ISV), or other third-party manufacturer markets any project deliverable 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 Project warranty and extended warranty period(s). Where such standard commercial warranty covers all or some of the Project warranty or extended warranty period(s), Contractor shall be responsible for the coordination during the Project warranty or extended warranty period(s) with ISV or other third party manufacturer(s) for warranty repair or replacement of ISV or other third-party manufacturer's Product.

Where Contractor, ISV or other third-party manufacturer markets any Project Deliverable with a standard commercial warranty which goes beyond the Project warranty or extended warranty period(s), Contractor shall notify the Authorized User and pass through the manufacturer's standard commercial warranty to Authorized User at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the third-party extended warranty after expiration of the Project warranty and extended warranty period(s).

The Commissioner agrees that Contractor is not responsible for any modification of the Products made by an Authorized User without Contractor's approval.

d. Replacement Parts Warranty If during the regular or extended warranty periods, parts or components break or fail to perform as intended, the Contractor shall promptly repair or, upon demand, replace the defective unit or component part affected. All costs for labor and material and transportation incurred to repair or replace defective Product during the warranty period(s) shall be borne solely by the Contractor, and the State or Authorized User shall in no event be liable or responsible therefor.

Any Product or parts thereof replaced by the Contractor under the Contract warranty shall be replaced at no cost to the Authorized User and guaranteed for the greater of: a) the Warranty Period set forth under paragraph (a) above; or b) if a separate warranty for that Product or parts thereof is generally offered by the manufacturer, the standard commercial warranty period offered by the manufacturer for the individual part or component.

e. Virus Warranty The Contractor represents and warrants that any Licensed Software acquired by the Authorized User does not contain any known viruses. Contractor is not responsible for viruses introduced at Licensee's site.

f. 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.

This Date/Time Warranty shall survive beyond termination or expiration of this contract as long as the Product is used by the governmental entity, or its successor, for whom the Product was originally purchased." Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

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

h. Miscellaneous The Authorized User shall promptly notify the Contactor and the Commissioner in writing of any claim of breach of any warranty provided herein.

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.

60. 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 renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Bid 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.

61. INDEMNIFICATION Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully defend, indemnify and hold harmless the Authorized Users from suits, actions, damages and costs 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 indemnify to the extent any claim, loss or damage arising hereunder solely due to the negligent act, failure to act, gross negligence or willful misconduct of the Authorized Users.

The Commissioner shall give Contractor: (i) prompt written notice of any action, claim or threat of suit, or other suit, (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.

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 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 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.

62. INDEMNIFICATION RELATING TO THIRD PARTY RIGHTS The Contractor will also defend, indemnify and hold the Authorized Users harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs in any action for infringement of a patent, copyright, trademark, trade secret or other proprietary right provided: a) such claim arises solely out of the Products as supplied by the Contractor, and not out of any modification to the Products made by Authorized User or by someone other than Contractor at the direction of the Authorized User without Contractor's approval, or by reason of an off-the-shelf component; and b) Authorized User gives Contractor prompt written notice of any such action, claim suit or threat of suit alleging infringement.

At Authorized User's option, Contractor may be given the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and to provide assistance in the defense of any such action, claim or suit at the expense of Contractor.

Such indemnity shall only be applicable in the event of claims, judgments, liabilities and/or costs that may be finally assessed against Authorized User in any action for infringement of a patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims, judgments, liabilities and/or costs arise solely from the Authorized Users negligent act, failure to act, gross negligence or willful misconduct.

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 eqal 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 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 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 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 seek to secure a continuance to permit the Authorized User to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the Authorized User may have. This constitutes the Authorized User's sole and exclusive remedy for patent infringement, or for infringement of any other third party proprietary right.

63. LIMITATION OF LIABILITY Except as otherwise set forth in the Indemnification clause and the Indemnification Relating to Third Party Rights 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 and services, or parts thereof forming the basis of the Authorized User's claim (said amount

not to exceed a total of twelve (12) months charges payable under the applicable Purchase Order) 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.

64. DISPUTES

a. Informal Dispute Resolution Process

1. It is the policy of OGS to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to OGS bid solicitations, contract awards or contract administration. If the Parties are not able to resolve their dispute between themselves as set forth below, OGS encourages vendors to seek resolution of disputes through consultation with OGS staff. Such consultation is voluntary. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of the Dispute Resolution Procedures for Vendors may be obtained by contacting the person identified in the Contract as a designated contact or through the OGS website (www.ogs.ny.gov).

2. In the event there is a dispute or controversy under this Centralized Contract, the Contractor, OGS and Authorized User agree to exercise their best efforts to resolve the dispute as soon as possible. The Contractor, OGS and Authorized User shall, without delay, continue to perform their respective obligations under this Centralized Contract which are not affected by the dispute. Primary responsibility for resolving any dispute arising under this Centralized Contract shall rest with the Authorized User's Contractor Coordinators and the Contractor's Account Executive and the State & Local Government Regional General Manager.

3. In the event the Authorized User is dissatisfied with the Contractor's Products provided under this Centralized Contract, the Authorized User shall notify the Contractor in writing pursuant to the terms of the Contract. In the event the Contractor has any disputes with the Authorized User, the Contractor shall so notify the Authorized User in writing. If either party notifies the other of such dispute or controversy, the other party shall then make good faith efforts to solve the problem or settle the dispute amicably, including meeting with the party's representatives to attempt diligently to reach a satisfactory result.

4. If negotiation between such persons fails to resolve any such dispute to the satisfaction of the parties within fourteen (14) business days or as otherwise agreed to by the Contractor and Authorized User, of such notice, then the matter shall be submitted to the State's Contract Administrator and the Contractor's senior officer of the rank of Vice President or higher as its representative. Such representatives shall meet in person and shall attempt in good faith to resolve the dispute within the next fourteen (14) business days or as otherwise agreed to by the parties. This meeting must be held before either party may seek any other method of dispute resolution, including judicial or governmental resolutions. Notwithstanding the foregoing, this section shall not be construed to prevent either party from seeking and obtaining temporary equitable remedies, including injunctive relief.

5. The Contractor shall extend the dispute resolution period for so long as the Authorized User continues to make reasonable efforts to cure the breach, except with respect to disputes about the breach of payment of fees or infringement of its or its licensors' intellectual property rights.

b. Formal Disputes

1. Definitions

a. Filed means the complete receipt of any document by OGS before its close of business.

b. Dispute means a written objection by Contractor to any of the following:

i. A solicitation or other request by OGS for offers for a contract for the procurement of commodities or services.

ii. The cancellation of the solicitation or other request by OGS.

iii. An award or proposed award of the Contract by OGS.

iv. A termination or cancellation of an award of the Contract by OGS.

v. Changes in the Scope of the Centralized Contract by the Commissioner.

vi. Determination of "materiality" in an instance of nonperformance or contractual breach.

vii. An equitable adjustment in the Centralized Contract terms and/or pricing made by the Commissioner during a Force Majeure event.

2. Submission of Disputes

a. A formal dispute by Contractor must be filed in writing to OGS by mail, email or facsimile.

3. The dispute must include:

a. Name, address, e-mail address, fax and telephone numbers of the filer.

b. Solicitation or Contract number.

c. Detailed statement of the legal and factual grounds for the dispute, including a description of resulting prejudice to the filer.

d. Copies of relevant documents.

e. Request for a ruling by the agency.

f. Statement as to the form of relief requested.

g. All information establishing that the filer is an interested party for the purpose of filing a dispute.

h. All information establishing the timeliness of the dispute.

Disputes must be filed with the Director of OGS New York State Procurement (NYSPro) at the following address:

New York State Office of General Services
Director, NYSPro
38th Floor, Corning Tower
Empire State Plaza
Albany, NY 12242
Facsimile: (518) 486-6099

Disputes concerning the administration of the Contract after award must be filed within twenty (20) business days by Contractor after the Authorized User and Contractor fails to reach resolution through the Informal Dispute Resolution Process.

4. Agency Response

1. OGS will consider all information relevant to the dispute, and may, at its discretion, suspend, modify, or cancel the disputed

procurement/Contract action prior to issuance of a formal dispute decision.

2. OGS reserves the right to require the Contractor to meet or participate in a conference call with OGS to discuss the dispute when, in its sole judgment, circumstances so warrant.

3. OGS reserves the right to waive or extend the time requirements for decisions and final determination on appeals herein prescribed when, in its sole judgment, circumstances so warrant.

4. OGS reserves the right to consider or reject the merits of any dispute.

5. Notice of Decision: A copy of the decision, stating the reason(s) upon which it is based and informing the filer of the right to appeal an unfavorable decision to the Chief Procurement Officer shall be sent to the filer or its agent by regular mail within thirty (30) business days of receipt of the dispute.

5. Appeals

a. Should the filer be dissatisfied with the dispute determination, a written appeal may be directed to:

Chief Procurement Officer
New York State Office of General Services
NYSPro
38th Floor, Corning Tower
Empire State Plaza
Albany, NY 12242
Facsimile: (518) 486-9166

b. Written notice of appeal of a determination must be received at the above address no more than ten (10) business days after the date the decision is received by the filer. The decision of the Director of NYSPro shall be a final and conclusive agency determination unless appealed to the Chief Procurement Officer within such time period.

c. The Chief Procurement Officer shall hear and make a final determination on all appeals or may designate a person or persons to act on his/her behalf. The final determination on the appeal shall be issued within twenty (20) business days of receipt of the appeal.

d. An appeal of the decision of the Director of NYSPro shall not include new facts and information unless requested in writing by the Chief Procurement Officer.

e. The decision of the Chief Procurement Officer shall be a final and conclusive agency determination.

6. Legal Appeals Nothing contained in these provisions is intended to limit or impair the rights of Contractor to seek and pursue remedies of law through the judicial process.

THE FOLLOWING CLAUSES PERTAIN TO TECHNOLOGY & NEGOTIATED CONTRACTS

65. 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 (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by any Authorized Users otherwise licensed to use the Product, provided that any modifications, 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.

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. Licensed Documentation If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) hard copy instructions for access by downloading from the Internet (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per site
- Processing Capacity - 10 copies per site

Software media must be in a format specified by the Authorized User, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the terms of license.

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. Maintenance term(s) and any renewal(s) thereof are independent of the expiration of the Centralized Contract term and will not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of error corrections, updates, revisions, fixes, upgrade and new releases to Licensee, and (ii) Help Desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line Help Desk accessibility. Contractor shall maintain the Products so as to provide Licensee with the ability to utilize the Products in accordance with the Product Documentation without significant functional downtime to its ongoing business operations during the maintenance term.

Authorized User 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 Authorized User 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 which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

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 between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) 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 Outsourcers / Facilities Management, Service Bureaus / or Other Third Parties Outsourcers, facilities management or service bureaus 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: 1) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and 2) such 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 3) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain 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.

Any third party with whom a Licensee has a relationship for a state function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

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 in the event of destruction or corruption of the Product or disasters or emergencies which require Licensee to restore backup(s) or to initiate disaster recovery procedures for its platform or operating systems; ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage. "Cold Site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; 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. "Disaster Recovery" shall be defined as 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.

h. Confidentiality Restrictions The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

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;

(iii) Export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

66. <u>PRODUCT ACCEPTANCE</u> Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User(s) shall have thirty (30) days from the date of delivery to accept hardware Products and sixty (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(s) 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 the Commissioner or Authorized User agrees to accept the Product at completion of trial use.

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 sets to be specified by User. Where using its own data or tests, Authorized User must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Authorized User, and shall be made part of the Contractor's standard documentation. 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 thirty (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.

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 thirty (30) days to correct the deficiency, and the Authorized User shall have an additional sixty (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.

67. 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 provided that: (i) Contractor gives Licensee(s) at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting firms from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (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; and (v) 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 NYS Net Price in effect 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.

68. OWNERSHIP/TITLE TO PROJECT DELIVERABLES

a. Definitions

(i) For purposes of this clause, "Products." 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 diskette, CD, DVD or other 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." 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." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for Authorized User under the Contract.

b. Title to Project Deliverables Contractor acknowledges that it is commissioned by the Authorized User to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Bid or Purchase Order, the Authorized User shall have ownership and license rights as follows:

(i) Existing Products:

1. Hardware - Title and ownership of Existing Hardware Product shall pass to Authorized User upon Acceptance.

2. Software - Title and ownership to Existing Software Product(s) delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to Authorized User in accordance with the Contractor or ISV owner'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 purpose(s) stated in the Bid 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 ISV's owner'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 Product(s), 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 purpose(s) 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 purchase(s) 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 Product(s), 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 ISV (Third Party) Product Where Contractor furnishes Existing Licensed Product(s) as a Project Deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Authorized User at Contractor's sole cost and expense.

69. 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; or (ii) a written confirmation from the Proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

70. PRODUCT VERSION Purchase Orders shall be deemed to reference Manufacturer's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by Authorized User and Contractor is willing to provide such version.

71. 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, each Licensee and each Authorized User 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 customer, or b) not less than twelve (12) months from the date of notice; and (iii) at Authorized User's option, provided that the Authorized User is under contract for maintenance on the date of notice, either: provide the Authorized User with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Authorized User to continue use and maintenance of the Product.

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 (5) 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 State and each Authorized User 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 customer, or b) not less than twelve (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.

72. NO HARDSTOP/PASSIVE LICENSE MONITORING Unless an Authorized User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all Upgrades do not and will 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). Contractor agrees that in the event of a breach or alleged breach of this provision that Authorized User shall not have an adequate remedy at law, including monetary damages, and that Authorized User 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 Authorized User shall be entitled.

73. SOURCE CODE ESCROW FOR LICENSED PRODUCT If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall either: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) will certify to the State that the Product manufacturer/developer has named the State, acting by and through the Authorized User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above and such

updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this clause.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

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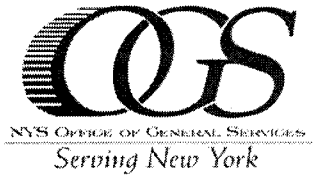

EQUAL EMPLOYMENT OPPORTUNITY STAFFING PLAN

SUBMIT WITH BID OR PROPOSAL or within a reasonable time thereafter as requested by OGS, but prior to Contract Award.

Solicitation No.:	**Reporting Entity:** ☐ Contractor ☐ Subcontractor	Report includes Contractor's ☐ Contractor's work force to be utilized on this contract ☐ Contractor's total work force ☐ Subcontractor's work force to be utilized on this contract ☐ Subcontractor's total work force
Contractor/Subcontractor's Name:		
Contractor/Subcontractor's Address: **FEIN:**		

Enter the total number of employees for each classification.

EEO Job Category	Total Work Force	Work force by Gender		Work force by Race/Ethnic Identification													
		Total Male (M)	Total Female (F)	White (M)	(F)	Black (M)	(F)	Hispanic (M)	(F)	Asian (M)	(F)	American Indian or Alaskan Native (M)	(F)			Veteran (M)	(F)
Executive/Senior level Officials & Managers																	
First/Mid level officials & Managers																	
Professionals																	
Technicians																	
Sales Workers																	
Administrative Support Workers																	
Craft Workers																	
Operatives																	
Laborers and Helpers																	

Service Workers																	
Totals																	

PREPARED BY (Signature):	**TELEPHONE NO.:** **EMAIL ADDRESS:**	**DATE:**
NAME AND TITLE OF PREPARER (Print or Type):	**Submit completed form to:** **NYS Office of General Services** **Corning Tower, 38th Floor** **Empire State Plaza** **Albany, NY 12242**	

EEO 100 (Rev 5/12)

General instructions: Contact the Designated Contact(s) for the solicitation if you have any questions. **All Offerors** must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's total work force, the Offeror shall complete this form for the contractor's total work force. Subcontractors awarded a subcontract over $25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor must complete this form upon request of OGS.

Instructions for completing:

1. Enter the Solicitation Number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the total work force by gender and enter under the heading "Work force by Gender."
6. Break down the total work force by race/ethnic background and enter under the heading "Work force by Race/Ethnic Identification." Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

WHITE - (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

BLACK - A person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.

HISPANIC - A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

ASIAN & PACIFIC ISLANDER - A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

AMERICANINDIAN OR ALASKAN NATIVE (Not of Hispanic Origin) - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

APPENDIX D

CONTRACT MODIFICATION PROCEDURE

The following guidelines are subject to change at the discretion of OGS. A Contract Amendment requires a formally executed document by mutual agreement of the Parties, to be provided by OGS Contract Administrator, after submission and approval of the Contract Modification Form.

(1) **TYPES OF CONTRACT MODIFICATIONS**: In order to expedite processing of a contract modification, where proposed changes involve more than one category below, each change should be submitted to OGS as a separate request.

a) **UPDATES**: "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. Updates may include: Centralized Contract changes and updates made in accordance with the previously approved pricing formula (e.g. discount from list price); adding new products or services within the established, previously approved pricing structure; lowering pricing of products or services already on Contract, deleting products or services available through the Centralized Contract, adding product or service that do not fall under the previously established price structure or discounts under the Contract, re-bundled products, and other updates not listed above that are deemed to be in the best interest of the State and do not result in a change to the established Centralized Contract terms and conditions. Updates must be submitted to OGS for review, and must be accompanied by a justification of reasonableness of price if the change results in a change in pricing methodology. OGS will notify Contractor in writing if approved.

b) **AMENDMENTS**: "Amendments" are changes that are not specifically covered by the terms and conditions of the Centralized Contract but inclusion is found to be in the best interest of the State. Requests for product changes and other requests that would require changes to the terms and conditions of the Centralized Contract would fall into the Amendments category. Contractor must provide a written justification of reasonableness of the price levels offered in the applicable Program Agreement and a statement explaining why it is in the best interest of the State to approve the requested amendment. Amendments typically require negotiation between OGS and the Contractor. OGS will work directly with the Contractor to obtain the required documentation for each requested amendment and notify Contractor in writing if approved.

(2) **CONTRACTOR'S SUBMISSION OF CONTRACT MODIFICATIONS:** In connection with any Contract modification, OGS reserves the right to:

- request additional information
- reject Contract modifications
- remove Products from Contract modification requests
- request additional discounts for new or existing Products

(3) **PRICE LEVEL JUSTIFICATION – FORMAT:** Contractor is required to submit the Product and price level information for the update in an Excel spreadsheet format electronically via e-mail (and in hard copy if requested by OGS) to the OGS Contract Administrator. The list must be dated. The Product and price level information should include and identify (e.g., by use of separate worksheets or by using italics, bold and/or color fonts):

- Price level increases
- Price level decreases
- Products being added

(4) **SUPPORTING DOCUMENTATION:** Each modification request must include the current contract pricing discount relevant to the Products included in the update.

(5) **SUBMITTAL OF MODIFCATION REQUESTS:** A Contract modification request must be accompanied by a completed Contract Modification Form. Contractor should briefly describe the nature and purpose of the update (e.g., update requested in order to reflect a recently approved GSA schedule, to restructure the price level to its customers generally, and/or for new Products which fall into a new group or category that did not exist at the time of approval of the Contract by OGS). The Contract Modification Form must contain original signatures by an individual authorized to sign on behalf of Contractor and must be notarized.

CONTRACT MODIFICATION FORM	
OGS CONTRACT NO.: _____ CONTRACT DESCRIPTION: _____	DATE OF SUBMISSION: _____
CONTRACT PERIOD: From: _____ To: _____	CONTRACTOR CONTACT: NAME: _____ PHONE NO: _____ E-MAIL: _____
NOTE: Submission of this FORM does not constitute acceptance by the State of New York until approved by the appropriate New York State representative(s).	

INSTRUCTIONS:

1. This form is to be used for all Contract modifications. The form is to be completed in full, signed and submitted to OGS for final approval. Any submission that is not complete and signed will be rejected.
2. Contractor is required to submit the Product and price level information for the update electronically via e-mail in an Excel spreadsheet (and in hardcopy if requested by OGS) to the OGS Contract Administrator for this Contract.
3. Price level increase requests must be submitted in accordance with the Centralized Contract.
4. If more than one type of modification is being requested, each type should be submitted as a separate request.

The Contract modification request must be accompanied by the relevant current contract pricing discount information.

COMPLETE STATEMENTS 1 THROUGH 5 BELOW:

1. This request is for an: _____ Update _____ Amendment See Contract Modification Procedure for an explanation of these terms.	2. The intent of this submittal is to request: _____ Addition of new products or services _____ Deletion of products or services _____ Change in pricing level _____ Other Update _____ Other Amendment
3. All discounts are: _____ GSA _____ Most Favored Nation* _____ Other (provide explanation) _____ *Prices offered are the lowest offered to any similarly situated entity.	4. Attached documentation includes: _____ Current approved GSA (labeled "For information only") _____ Current relevant Price List (labeled "For information only") _____ Revised NYS Net Price List(s) in same format required for this Contract _____ Current copy of the "National Consumer Price Index for All Urban Consumers (CPI-U) Northeast region" (for price increases only)
5. Describe the nature and purpose of the modification. If applicable, please explain how pricing has been structured to Authorized Users, and/or identify and describe new Products which fall into a new group or category that did not exist at the time of approval of the Contract by OGS.	

The following CORPORATE ACKNOWLEDGEMENT statement must be signed by an individual authorized to sign on behalf of Contractor for the modification being requested in this Contract Modification document. The authorizing authority's signature must be notarized.

_____
Signature of Authorized Contractor Representative

CORPORATE ACKNOWLEDGMENT
STATE OF }: **ss.:**
COUNTY OF }

On the _____day of _____in the year 20__, before me personally came: _____, to me known, who, being by me duly sworn, did depose and say that he/she/they maintains an office at _____; that he/she/they is (are) _____ (the President or other officer or director or attorney in fact duly appointed) of _____, the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by authority of the board of directors of said corporation.

_____
Notary Public

OGS APPROVAL:
Approved _____ Approved as amended _____ Disapproved_____
Name:_____
Title:_____ Date_____

IFB 22868
ATTACHMENT 3 – NEW YORK STATE REQUIRED CERTIFICATIONS

NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with New York State Finance Law §165, the Contractor certifies that it or any individual or legal entity in which the Contractor holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Contractor, either (answer yes or no to one or both of the following, as applicable),

(1) have business operations in Northern Ireland,

No ☐ Yes ☐, and if yes:

(2) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of compliance with such principles.

No ☐ Yes ☐

NON-COLLUSIVE BIDDING CERTIFICATION

In accordance with New York State Finance Law §139-d, by submitting its bid each bidder and each person signing on behalf of any other bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

(A) The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (B) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (C) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

In the event that the bidder is unable to certify as stated above, the bidder shall provide a signed statement which sets forth in detail the reasons why the bidder is unable to furnish the certificate as required in accordance with State Finance law Section 139-d(1)(b).

DIESEL EMISSION REDUCTION ACT

Pursuant to §19-0323 of the N.Y. Environmental Conservation Law ("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 contract vendors "on behalf of" State agencies and public authorities and require certain reports from contract vendors. All heavy duty diesel vehicles must have BART by December 31, 2012. The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Bidder hereby certifies and warrants that all heavy duty vehicles, as

defined in NYECL §19-0323, to be used under this contract, will comply with the specifications and provisions of NYECL §19-0323, and 6 NYCRR Parts 248 and 249.

BIDDER

By: _____

Name: _____

Title: _____

Company: _____

Principal Place of Business Address:

_____

_____

_____

Federal Tax Identification #:

_____

Date: _____

IFB 22868
ATTACHMENT 5 - ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE

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

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

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

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

Bidders can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this Contract? _____ Yes _____ No

If yes, identify New York State Business(es) that will be used; (Attach identifying information).

IFB 22868
ATTACHMENT 7 – INSURANCE REQUIREMENTS

Upon tentative award, Bidders shall be required to procure, at their sole cost and expense, all insurance required by this section, with the exception of proof of workers' compensation and disability benefits insurance coverage, which should be submitted at the time of bid opening. In addition, 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, policies of insurance required by this section. All insurance shall be written by companies licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York and which have an A.M. Best Company rating of "A-" Class "VII" or better. If, during the term of a policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York and which is rated at least "A-" Class "VII" or better in the most recently published Best's Insurance Report.

Bidders and Contractors shall deliver to OGS evidence of such policies in a form acceptable to OGS. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. 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 or any Contract resulting from this solicitation.

General Conditions

A. ***Conditions Applicable to Insurance***. All policies of insurance required by this solicitation or any Contract resulting from this solicitation must meet 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 writing by OGS, policies must be written on an occurrence basis.

3. ***Certificates of Insurance/Notices***. Bidders and Contractors shall provide a Certificate or Certificates of Insurance, in a form satisfactory to OGS, upon tentative award, and thereafter within three (3) business days of request. Certificates shall reference the Solicitation or Contract Number. As applicable, the requested forms must name The New York State Office of General Services, New York State Procurement, 38th Floor, Corning Tower, Albany, New York 12242 as the Certificate Holder. Certificates shall be submitted to The New York State Office of General Services, New York State Procurement, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.

Unless otherwise agreed to in writing, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty

(30) days prior written notice to OGS, except in cases of cancellation for non-payment, in the event of which notice shall be provided as required by law to OGS.

Bidders and Contractors shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect. Not less than thirty (30) days prior to the expiration date or renewal date, Bidders and Contractors shall supply OGS with updated replacement Certificates of Insurance, and amendatory endorsements.

Certificates of Insurance shall:

- Be in the form acceptable to OGS (ie: an Acord);
- Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this solicitation or any Contract resulting from this solicitation;
- Be accompanied by an Additional Insured and a Waiver of Subrogation Endorsement as required herein;
- Refer to this solicitation and any Contract resulting from this solicitation by number and any other attachments on the face of the certificate; and
- Be signed by an authorized representative of the insurance carrier or producer.

Only original documents (Certificates of Insurance, endorsements & other attachments) or electronic forms, that can be directly traced back to the insurance carrier, agent or broker via e-mail distribution or similar means, will be accepted.

4. ***Primary Coverage.*** All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to OGS or any Authorized User for any claim arising from a Contractor's work under any Contract awarded as a result of this solicitation, or as a result of a Bidder or Contractor's activities. Any other insurance maintained by OGS or any Authorized User shall be excess of and shall not contribute with the Bidders/Contractor's insurance.

5. If, during the term of any Contract awarded as a result of this solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this solicitation or any Contract resulting from this solicitation, 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. Any delay, time lost, or additional cost incurred as a result of the Contractor not having insurance required by this solicitation or any Contract resulting from this solicitation or not providing proof of the same in a form acceptable to OGS, shall not give rise to a delay claim or any other claim against OGS. Should a Contractor fail to provide or maintain any insurance required by this solicitation or any Contract resulting from this solicitation, or proof thereof is not provided, OGS or an Authorized User may withhold further contract payments, treat such failure as a breach or default of the Contract.

6. ***Self-Insured Retention/Deductibles***. Certificates of Insurance must indicate the applicable deductible/self insured retention on each policy. Deductibles or self-insured retentions above $100,000 are subject to approval from OGS, which shall not be unreasonably withheld, conditioned or delayed. Bidders and Contractors shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.

7. ***Subcontractors.*** Should a Contractor engage a Subcontractor, the Contractor shall require all Subcontractors, prior to commencement of work by the Subcontractor, to secure and keep in force during the term of any Contract resulting from this solicitation, the insurance requirements of this document, as applicable. Proof thereof shall be supplied to OGS as required by this Section.

As applicable, insurance required by this solicitation or any Contract resulting from this solicitation shall name The People of the State of New York, its officers, agents, and employees as additional insureds hereunder (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 26 11 85 or the equivalent). Specifically, the additional insured requirement does not apply to Workers' Compensation and Disability coverage.

B. Insurance Requirements: Bidders and Contractors shall obtain and maintain in full force and effect, at their own expense, the following insurance with limits not less than those described below, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

1. **Commercial General Liability Insurance** with a limit of not less than $1,000,000 each occurrence and $2,000,000 in the aggregate. Such liability shall be written on the ISO occurrence form CG 00 01 01 96, or a substitute form providing equivalent coverages 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 coverage.
   - General Aggregate $2,000,000
   - Products – Completed Operations Aggregate $2,000,000
   - Personal and Advertising Injury $1,000,000
   - Each Occurrence $1,000,000

   Coverage shall include, but not be limited to, the following:
   - Premises liability;
   - Independent contractors;
   - Blanket contractual liability, including tort liability of another assumed in a contract;

- Defense and/or indemnification obligations, including obligations assumed under this contract;
- Cross liability for additional insureds;
- Products/completed operations for a term of no less than three (3) years, commencing upon acceptance of the work, as required by the contract;
- Explosion, collapse and underground hazards; and
- Contractor means and methods.

The following ISO forms must be endorsed to the policy:

a. CG 00 01 01 96 or an equivalent Commercial General Liability Coverage Form;
b. CG 20 10 11 85 or an equivalent- Additional Insured-Owner, Lessees or Contractors (Form B); and
c. Waiver of Subrogation Endorsement.

Limits may be provided through a combination of primary and umbrella/excess liability policies.

2. **Comprehensive Business Automobile Liability Insurance** with a limit of not less than $2,000,000.00 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.

   Waiver of Subrogation. Contractor shall cause to be include in each of the above referenced policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against OGS, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Contractor waives or has waived before the casualty, the right of recovery against OGS or (ii) any other form of permission for the release of OGS. A Waiver of Subrogation Endorsement shall be provided upon tentative award, and thereafter, within three (3) days of request.

C. Workers' Compensation Insurance and Disability Benefits Requirements

New York State Workers' Compensation Law (WCL) §57 & §220 requires the heads of all municipal and state entities to ensure that businesses applying for permits, licenses or contracts, document that they have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals, whether the governmental agency is having the work done or is simply issuing the permit, license or contract. Failure to provide proof of such coverage or a legal exemption will result in a rejection of a bid or renewal. **A Bidder may not be awarded a Contract unless proof of workers' compensation and disability insurance is provided to OGS.**

1. **Proof of Compliance with Workers' Compensation Coverage Requirements: An ACORD form (certificate of insurance) is NOT acceptable proof of workers' compensation coverage.** In order to provide proof of compliance with the

requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, a Bidder/Contractor shall:

A) Be legally exempt from obtaining Workers' Compensation insurance coverage; or

B) Obtain such coverage from an insurance carrier; or

C) Be a Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan.

A Bidder seeking to enter into a Contract with the State of New York shall provide one of the following forms to OGS at the time of bid submission, and thereafter, within three (3) days of request:

A) 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.wcb.ny.gov); (Reference applicable RFP and Group #s on the form.);

B) Certificate of Workers' Compensation Insurance:

1) Form C-105.2 (9/07) if coverage is provided by the Bidder/Contractor's insurance carrier, the Bidder/Contractor must request that its insurance carrier send this form to OGS, or

2) Form U-26.3 if coverage is provided by the State Insurance Fund, the Bidder/Contractor must request that the State Insurance Fund send this form to OGS;

C) Form SI-12, Certificate of Workers' Compensation Self-Insurance available from the New York State Workers' Compensation Board's Self-Insurance Office; or

D) Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance available from the Bidder/Contractor's Group Self-Insurance Administrator.

2. **Proof of Compliance with Disability Benefits Coverage Requirements:**
In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, a Bidder/Contractor shall:

A) Be legally exempt from obtaining disability benefits coverage; or

B) Obtain such coverage from an insurance carrier; or

C) Be a Board-approved self-insured employer.

A Bidder seeking to enter into a Contract with the State of New York shall provide one of the following forms to OGS at the time of bid submission and thereafter, within three (3) days of request:

A) 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.wcb.ny.gov); (Reference applicable RFP and Group #s on the form.);

B) Form DB-120.1, Certificate of Disability Benefits Insurance. The Biddder/Contractor must request that its insurance carrier send this form to OGS; or

C) Form DB-155, Certificate of Disability Benefits Self-Insurance. The Bidder/Contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

Proof of coverage or an exemption shall be submitted to The New York State Office of General Services, New York State Procurement, Corning Tower- 38th Floor, Empire State Plaza, Albany, NY 12242.

New York State Office of General Services
New York State Procurement
Corning Tower Building
Empire State Plaza
Albany, New York 12242
http://nyspro.ogs.ny.gov

PURCHASING MEMORANDUM

BID SOLICITATION UPDATE #5

IFB NUMBER: 22868

DATE: December 16, 2014

GROUP: 20060 - Books & Non-Print Library Materials & Related Ancillary Services

PLEASE ADDRESS INQUIRIES TO DESIGNATED CONTACTS:

Theresa Kuo
Contract Management Specialist 1
(518) 474-0259
ningbin.kuo@ogs.ny.gov

Ruth K. Quezada
Contract Management Specialist 2
(518) 473-2801
ruth.quezada@ogs.ny.gov

Jamie Nusbaum
Team Leader
(518) 474-5340
edward.nusbaum@ogs.ny.gov

BID OPENING: Tuesday, December 23, 2014, 11:00 AM ET

SUBJECT: REVISION OF SCOPE OF THE IFB

TO PROSPECTIVE BIDDERS:

This update is being issued to revise the scope of Invitation for Bids (IFB) 22868 in order to provide additional clarity regarding publications that may receive supplemental material or updates subsequent to the original release of the publication. The Office of General Services (OGS), New York Procurement (NYSPro) has revised IFB 22868 (Revised December 12, 2014), Section 2.1, Scope, below, by adding additional clarifying language to Paragraph 4, which is bolded to emphasize the change. There are no other changes to IFB Section 2.1 and no Bid Document revisions will be issued as a result of this change.

2.1 Scope

The purpose of this IFB is to establish a five (5) -year statewide term Contract. The resultant Contracts are to provide State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. **This IFB contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other. Bidders may bid on one or both Lots. Ancillary Services which are described in further detail in Section 1.8, *Definitions* and Attachment 1 – *Price Pages (Revised December 12, 2014),* may also be offered if Bidder bids on Lot 1 and/or Lot 2.**

The State of New York proposes to make multiple awards based on the terms and conditions stated herein for Books and Non-Print Library Materials and Related Ancillary Services specified. The resultant awards shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music.

Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlases/charts; video games; sheet music/scores; and audio visual materials.

The Contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. **However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract. (Emphasis Added)**

Bidders should monitor The New York State Contract Reporter for any future solicitation updates: https://www.nyscr.ny.gov/

If submitting a bid, this memorandum must be signed, attached to, and made a part of your bid.

BID OF (COMPANY): _____

ADDRESS: _____

CITY, STATE, ZIP: _____

SIGNATURE OF BIDDER: _____

PRINTED COPY OF SIGNATURE: _____ DATE: _____

New York State Office of General Services
New York State Procurement
Corning Tower Building
Empire State Plaza
Albany, New York 12242
http://nyspro.ogs.ny.gov

PURCHASING MEMORANDUM

BID SOLICITATION UPDATE #4

IFB NUMBER: 22868

DATE: December 12, 2014

GROUP: 20060 - Books & Non-Print Library Materials & Related Ancillary Services

PLEASE ADDRESS INQUIRIES TO DESIGNATED CONTACTS:

Theresa Kuo
Contract Management Specialist 1
(518) 474-0259
ningbin.kuo@ogs.ny.gov

Ruth K. Quezada
Contract Management Specialist 2
(518) 473-2801
ruth.quezada@ogs.ny.gov

Jamie Nusbaum
Team Leader
(518) 474-5340
edward.nusbaum@ogs.ny.gov

BID OPENING: Tuesday, December 23, 2014, 11:00 AM ET

SUBJECT: RESPONSES TO BIDDER INQUIRIES AND BID DOCUMENT REVISIONS

TO PROSPECTIVE BIDDERS:

The Office of General Services (OGS), New York Procurement (NYSPro) has given careful consideration to the inquiries received in regards to Invitation for Bids (IFB) 22868 for Books & Non-Print Library Materials & Related Ancillary Services during the inquiry period that ended close of business, November 5, 2014.

Answers to all inquiries can be obtained by visiting the NYSPro Bid Calendar:
http://www.ogs.ny.gov/purchase/biddocument/22868BID.ASP
All inquiries are verbatim as received by OGS.

In addition to publishing responses to the inquiries, OGS has made some revisions to the Bid Documents, which are being released simultaneously with the responses to the inquiries. A summary of the revisions is set forth below. The summary of revisions is provided as a convenience. Bids submitted will be evaluated based on the revised Bid Documents. Failure to submit the applicable revised Bid documents may result in the bid being found non-responsive and may result in disqualification of Bid.

If submitting a bid, this memorandum must be signed, attached to, and made a part of your bid. **BID OPENING DATE: Tuesday, December 23, 2014, 11:00 AM ET**

REVISIONS TO INVITATION FOR BIDS (IFB)

NYSPro is issuing a revised Invitation for Bids (IFB), IFB 22868 (Revised December 12, 2014), which will supersede the IFB that was released on October 20, 2014. A summary of the changes are as follows:

1. Cover page
   - The Bid Opening Date has been revised to reflect the new bid opening date and time.
   - A new Designated Contact has been added as follows:

DESIGNATED CONTACTS FOR IFB INQUIRIES:		
PRIMARY CONTACT	**SECONDARY CONTACT**	**TERTIARY CONTACT**
Theresa Kuo	Ruth Quezada	Jamie Nusbaum
Contract Management Specialist 1	Contract Management Specialist 2	Team Leader
Telephone: (518) 474-0259	Telephone: (518) 473-2801	Telephone: (518) 474-2387
E-mail: ningbin.kuo@ogs.ny.gov	E-mail: ruth.quezada@ogs.ny.gov	E-mail: edward.nusbaum@ogs.ny.gov

   - The Vendor Information table on Page 1 has been revised as follows:
     - Added language: *" Minority Owned Business"* changed to *"NYS Certified Minority Owned Business"*
     - Added language: *" Women Owned Business"* changed to *"NYS Certified Women Owned Business"*

2. Section 1.2 IFB Documents
   - Revised to reflect the revised versions of Attachment 1 – *Price Pages (Revised December 12, 2014)* and Attachment 4 - *Bid Submittal Checklist (Revised December 12, 2014*).

3. Section 1.3 Key Events/Dates
   - The table of Key Events and Dates has been changed. Please see the following updated table with the amended schedule:

• EVENT	DATE	TIME
IFB Release	October 27, 2014	N/A
Closing Date for Inquiries	November 05, 2014	5:00 PM ET
OGS NYSPro's Responses to Inquiries	December 12, 2014	N/A
Submission of Bid and Bid Opening	December 23, 2014	11:00 AM ET
Contract Term Begin (estimated)	January 1, 2015	N/A
EVENT	DATE	TIME

4. Section 1.5 Issuing Agency
   - An extra "period" has been removed from the last sentence.

5. Section 1.7 Inquires
   - A new Designated Contact has been added to the NYSPro designated contacts as follows:

PRIMARY CONTACT	SECONDARY CONTACT	TERTIARY CONTACT
Theresa Kuo	Ruth Quezada	Jamie Nusbaum
Contract Management Specialist 1	Contract Management Specialist 2	Team Leader
E-mail: ningbin.kuo@ogs.ny.gov	E-mail: ruth.quezada@ogs.ny.gov	E-mail: edward.nusbaum@ogs.ny.gov

   - The spelling of fax has been corrected from "Fascimile" to "Facsimile" in the table of the contact information for inquiries related specifically to Minority Women-Owned Business Enterprises (MWBE) provisions of this procurement solicitation, including Appendix C.

6. Section 1.8 Definitions.
   - Item 7 – Definition revised to reflect revised Attachment 1- Price Pages (Revised December 12, 2014):
     7. **"Lot"** shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014).*

7. Section 2.1 Scope
   - Paragraph 1 – revised to reflect revised Attachment 1- *Price Pages (Revised December 12, 2014).*
   - Paragraph 3 – revised to clarify that non-subscription based eBooks are within scope for Non-Print items.
   - Paragraph 4 – revised to provide additional clarifying language advising that the Contract is primarily for off the shelf, non-subscription based Products; and that subscription based eBooks, video players, and tablets are not within the scope of the Contract.

8. Section 2.4 Other Qualifications
   - Item 5 – Revised to reflect the revised version of Attachment 4 – *Bid Submittal Checklist and General Questions (Revised December 12, 2014).*

9. Section 3.7 Bid Submittal Instructions
   - Revised to reflect the revised versions of Attachment 1 – *Price Pages (Revised December 12, 2014)* and Attachment 4 - *Bid Submittal Checklist (Revised December 12, 2014*).
   - Clarifying language added to 1.a and 2.a regarding original signature and notarization requirements for Pages 1 and 2 of the IFB.
   - Two additional items have been added to the 3.7.1, Portable electronic media containing:
     i. Completed, signed and notarized paper copy of Vendor Responsibility Questionnaire For-Profit Business Entity if online Questionnaire has not been completed (PDF); and
     j. Summary of sales demonstrating a minimum sales volume of $1,000,000.00 annually in product meeting the scope of the contract, offered to national public entities in the 36 month period preceding the bid opening (Microsoft Excel).
   - One additional item has been added to 3.7.2, Bound, original hard copy versions of each of the following:
     g. Completed, signed and notarized paper copy of Vendor Responsibility Questionnaire For-Profit Business Entity if online Questionnaire has not been completed.

10. Section 3.8 Delivery
    - Item 4 - Revised to reflect new Bid Opening Date and Time (December 23, 2014 at 11:00 AM).

11. Section 4.1 Method of Award
    - Paragraph 1, 1st sentence - Revised to reflect revised Attachment 1- *Price Pages (Revised December 12, 2014).*

12. Section 5.10 New York State Procurement Card
    - Paragraph 1 – Revised to reflect revised Attachment 4 – *Bid Submittal Checklist and General Questions (Revised December 12, 2014).*

13. Section 5.11 Orders
    - Paragraph 1 – 1st sentence has been revised to read:
      Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system.

14. Section 5.13 Purchase Orders and Invoicing
    - "Vouchers" has been removed from the first sentence and has been revised to read:
      All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges.

15. Section 5.24 Contract Administrator
    - Attachment 4 – *Bid Submittal Checklist & General Questions* has been revised to Attachment 4 - *Bid Submittal Checklist & General Questions (Revised December 12, 2014).*

16. Section 5.26 Insurance Requirements
    - Revised to reflect revised Attachment 4 – *Bid Submittal Checklist and General Questions (Revised December 12, 2014).*

17. Section 5.27 Report of Contract Usage
    - Microsoft Excel 2010 has been revised to Microsoft Excel 2013.

18. Section 5.52 Contract Modification Procedure
    - Paragraph 1 – a new sentence has been added as follows:
      Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract.

19. Section 5.57 Additional License Agreements
    - New section added:
      OGS will NOT review or approve "click through", "shrink wrap" or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if "click through", "shrink wrap" or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User's counsel, it is the responsibility of such Authorized User's counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

REVISIONS TO ATTACHMENT 1 – PRICE PAGES (REVISED DECEMBER 12, 2014)

1. "Additional Information" field has been added to all Pricing tabs where additional supplemental information regarding Product and service offerings may be provided.
2. Lot 2–IN-PRINT PUBLICATIONS Price Page
   - Category "Books on Tape/CD Abridged" has been revised to "Audio Books Abridged – Tape/CD/DVDMP/MP4 Format"
   - Category "Books on Tape CD/Unabridged" has been revised to " Audio Books Unabridged – Tape/CD/DVD/MP3/MP4 Format"
   - Category "eBook" has been revised to "eBooks (non-subscription based)
   - Category "Encyclopedias" has been revised to "Encyclopedias (Digital Versions)

REVISIONS TO ATTACHMENT 4 – BID SUBMITTAL CHECKLIST & GENERAL QUESTIONS (REVISED DECEMBER 12, 2014)

1. All questions from Question 19 on have been renumbered and references to any Attachment 4 - *Bid Submittal Checklist and General Questions (Revised December 12, 2014)* inquiries in 'IFB 22868 Inquiry Responses' are reflective and consistent with the renumbering.
2. Question 7, revised to reflect revised Attachment 1- *Price Pages (Revised December 12, 2014).*
3. Question 9, revised to reflect Attachment 4- Attachment 4 - *Bid Submittal Checklist and General Questions (Revised December 12, 2014).*
4. Question 10a, "to previous question" has been inserted after "Yes".
5. Question 18 has been removed, Question 19 moved up to Question 18. Appendix D has been corrected to Appendix C- Equal Employment Opportunity Staffing Plan (Form EEO 100); all questions following renumbered.
6. Question 20a, "to previous question" has been inserted after "Yes".
7. Question 20b, "to previous question" has been inserted after "Yes".
8. Question 29a, "If Yes to previous question" has been inserted at beginning of question.
9. Question 29b, "to previous question" has been inserted after "Yes".
10. Question 38, reference to "supplier's" replaced with "Bidder's".
11. Question 39, revised to reflect revised Attachment 1- *Price Pages (Revised December 12, 2014)* and to advise that failure to submit this most recent version may result in rejection of the bid.
12. Questions at the end regarding company contact information under a resultant Contract have been consolidated.

It is the Bidder's responsibility to submit the most recent versions of all Bid Documents. Failure to submit IFB 22868 (Revised December 12, 2014), Attachment 1 - *Price Pages (Revised December 12, 2014),* or Attachment 4 - *Bid Submittal Checklist & General Question (Revised December 12, 2014)* may result in the bid being found non-responsive and result in disqualification.

Bidders should monitor The New York State Contract Reporter for any future solicitation updates: https://www.nyscr.ny.gov/

If submitting a bid, this memorandum must be signed, attached to, and made a part of your bid.

BID OF (COMPANY): _____

ADDRESS: _____

CITY, STATE, ZIP: _____

SIGNATURE OF BIDDER: _____

PRINTED COPY OF SIGNATURE: _____ DATE: _____

New York State Office of General Services
New York State Procurement
Corning Tower Building
Empire State Plaza
Albany, New York 12242
http://nyspro.ogs.ny.gov

PURCHASING MEMORANDUM

BID SOLICITATION UPDATE #3

IFB NUMBER: 22868

DATE: December 05, 2014

GROUP: 20060 - Books and Non-Print Library Materials and Related Ancillary Services

PLEASE ADDRESS INQUIRIES TO DESIGNATED CONTACTS:
Ruth K. Quezada
Contract Management Specialist 2
(518) 473-2801
ruth.quezada@ogs.ny.gov

BID OPENING: December 10, 2014

Jamie Nusbaum
Team Leader
(518) 474-5340
edward.nusbaum@ogs.ny.gov

SUBJECT: UPDATE ON BIDDER INQUIRIES AND SECOND POSTPONEMENT OF BID OPENING DATE

TO PROSPECTIVE BIDDERS:
The Office of General Services (OGS) New York Procurement (NYSPro) continues to give consideration to the inquiries received in regards to Invitation for Bids (IFB) 22868 for Books and Non-Print Library Materials and Related Ancillary Services during the inquiry period that ended close of business, November 05, 2014 and expects to release responses to the inquiries in the near future. In addition, the bid opening date has been postponed a second time to allow sufficient time for Bidders to consider the responses to the inquiries. The new bid opening date is **December 23, 2014, 11:00 AM ET.**

In addition to publishing responses to the inquiries, OGS is also making revisions to some of the Bid Documents which will be released simultaneously with the responses to the inquiries. Therefore, prospective Bidders are advised not to submit bids until receipt of the responses to the inquiries and revised Bid Documents. Bids submitted will be evaluated based on the revised Bid Documents.

Bidders should monitor The New York State Contract Reporter for any future solicitation updates: https://www.nyscr.ny.gov/

If submitting a bid, this memorandum must be signed, attached to, and made a part of your bid.

BID OF (COMPANY): _____

ADDRESS: _____

CITY, STATE, ZIP: _____

SIGNATURE OF BIDDER: _____

PRINTED COPY OF SIGNATURE: _____ DATE: _____

New York State Office of General Services
New York State Procurement
Corning Tower Building
Empire State Plaza
Albany, New York 12242
http://nyspro.ogs.ny.gov

PURCHASING MEMORANDUM

BID SOLICITATION UPDATE #2

IFB NUMBER: 22868

DATE: November 12, 2014

GROUP: 20060 - Books and Non-Print Library Materials and Related Ancillary Services

PLEASE ADDRESS INQUIRIES TO DESIGNATED CONTACTS:

Ruth K. Quezada
Contract Management Specialist 2
(518) 473-2801
ruth.quezada@ogs.ny.gov

Jamie Nusbaum
Team Leader
(518) 474-5340
edward.nusbaum@ogs.ny.gov

BID OPENING: November 20, 2014

SUBJECT: UPDATE ON BIDDER INQUIRIES AND POSTPONEMENT OF BID OPENING DATE

TO PROSPECTIVE BIDDERS:

The Office of General Services (OGS) is giving careful consideration to the inquiries received in regards to Bid No. 22868 for Books and Non-Print Library Materials and Related Ancillary Services during the inquiry period that ended close of business, November 05, 2014. OGS expects to release responses to the inquiries in the near future.

In addition to the publishing responses to the inquiries, OGS is considering possible revisions to some of the Bid Documents. Therefore, prospective Bidders are advised not to submit bids until receipt of the responses to the inquiries and any revised Bid Documents that may be issued. The Bid Opening Date has been postponed accordingly to allow sufficient time for Bidders to consider the responses to the inquiries and any revised Bid Documents that may be necessary. The new Bid Opening Date is **December 10, 2014, 11:00 AM ET.**

If submitting a bid, this memorandum must be signed, attached to, and made a part of your bid.

BID OF (COMPANY): _____

ADDRESS: _____

CITY, STATE, ZIP: _____

SIGNATURE OF BIDDER: _____

PRINTED COPY OF SIGNATURE: _____

DATE: _____

New York State Office Of General Services
New York State Procurement
Corning Tower Building
Empire State Plaza
Albany, New York 12242
http://nyspro.ogs.ny.gov

PURCHASING MEMORANDUM

BID SOLICITATION UPDATE #1

IFB NUMBER: 22868

DATE: October 30, 2014

GROUP: 20060 - Books and Non-Print Library Materials and Related Ancillary Services

PLEASE ADDRESS INQUIRIES TO DESIGNATED CONTACTS:
Ruth K. Quezada
Contract Management Specialist 2
(518) 473-2801
ruth.quezada@ogs.ny.gov

BID OPENING: November 20, 2014

Jamie Nusbaum
Team Leader
(518) 474-5340
edward.nusbaum@ogs.ny.gov

SUBJECT: REVISED ATTACHMENT 2 – INQUIRES TEMPLATE AND EXTENDED CLOSING DATE FOR INQUIRIES

TO PROSPECTIVE BIDDERS:
The above referenced attachment has been modified to reduce the file size in order to facilitate email transmission.

Bidders are hereby advised to submit the revised version of Attachment 2 titled "Attachment 2- Inquires Template (Revised October 30, 2014)"; however, in the event that Bidders have already submitted their inquiries there is no need to submit the revised version of Attachment 2.

We are extending the Closing Date for Inquiries to November 05, 2014, 5:00 PM ET. All other deadlines remain the same.

Attachment 2 - Inquires Template (Revised October 30, 2014) can be accessed at this link:
http://www.ogs.ny.gov/purchase/biddocument/22868Bid.asp

If submitting a bid, this memorandum must be signed, attached to, and made a part of your bid.

BID OF (COMPANY): _____

ADDRESS: _____

CITY, STATE, ZIP: _____

SIGNATURE OF BIDDER: _____

PRINTED COPY OF SIGNATURE: _____

DATE: _____

22868p01/rkq