Bid #:	Opening Date: / /	Time:
Bid Title:		

THE CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF CITYWIDE PROCUREMENT
1 CENTRE STREET
NEW YORK, NY 10007-1614

ATTN: 18th FLOOR BID ROOM

Important Information for Vendors

- Be sure to read the bid solicitation document and all attachments carefully.
- When completing the bid, be sure that all information is typed or written in ink. For your protection, if there are erasures or alterations, they must be initialed, in ink.
- Be sure to complete and include all required forms.
- Bid must be signed in ink and notarized.
- All downloaded documents must be returned; be sure to keep a copy for your records.
- Be sure to complete and use the mailing label (next page) you have downloaded for the envelope in which you submit your bid.
- Be sure to return/submit the bid so that it is received in the bid room by the due date and time indicated on page A-I of the bid book. If you use any mail service to submit your bid response, please ensure that your response arrives at least one (1) business day prior to the scheduled bid opening date to accommodate mail processing.
- Any bid solicitation response that arrives at the bid room after the time and date specified in the bid document shall be deemed late and will not be considered.
- If you plan to deliver your bid in person, please allow ample time for entry through security. Bring 2 forms of identification (one with a photo).
- **Please note that starting July 1, 2011, postcard notification of bid solicitations will no longer be sent. If you wish continued notification of future bids, you must enroll in City Record Online at www.nyc.gov/cityrecord. Enrollment is free.**

  As of 8/10/15 you will need to renew your enrollment. If you renewing your registration, please use the same email as the one used for registration on the old website that way your profile will be transferred. Once you are enrolled or renewed your enrollment, you will be able to download any bid solicitation.

- **Bidders and proposers interested in being placed on a bidder or proposer list used by New York City agencies to notify vendors of upcoming contracting opportunities may access/create an account at the following site: Payee Information Portal (PIP) at http://nyc.gov/pip.**

  If you have any questions regarding bid notification, please contact our Vendor Relations staff by fax: (212) 669-7575, or email: dcasdmssvr@dcas.nyc.gov.

BID BOOK

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
DIVISION OF MUNICIPAL SUPPLY SERVICES
MUNICIPAL BUILDING
1 CENTRE STREET, 18TH FLOOR
NEW YORK, NEW YORK 10007

INVITATION FOR BIDS

BID INFORMATION:

BID TITLE: **LOADER, ARMORED MULTI-TERRAIN - NYPD**
BID NO.: **1700027**

SUBMIT BIDS BEFORE
BID OPENING TIME TO: BID ROOM, 18TH FLOOR, MUNICIPAL BUILDING

BID OPENING DATE: **October 12, 2016**
AND HOUR: **10:30 A.M.**

VERIFICATION BY OATH AND SIGNATURE OF BIDDER:

That being duly sworn, I depose and say: that I have knowledge of the several matters herein stated and they are in all respects true and that I have been authorized to execute the foregoing bid on behalf of said corporation, partnership or firm.

_____
Full Name of Bidder (Company)

_____
Address

_____ _____ [ ] Corporation
Federal Tax Identification No. (EIN No.) Telephone [ ] Partnership
[ ] Individual

_____ _____
E-Mail Address Fax No.

Print Name _____

By:_____ _____
Signature Title

Subscribed and sworn to before me
this _____ day of _____ , 20__

_____
Notary Public

Commission Expires _____, 20__

AFFIRMATIONS

1. BIDDER AFFIRMATION

Bidder affirms that it is not in arrears to the City of New York upon debt or contract, or taxes, and is not a defaulter as surety or otherwise, upon obligation to the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York or State of New York, nor is there any proceeding pending relating to the responsibility or qualification of the Bidder to receive public contracts.

OR

Bidder is unable to declare as above because of the following:

_____

_____

_____

_____

☐ I AFFIRM ☐ I CANNOT AFFIRM FOR REASONS ABOVE

2. MACBRIDE PROVISIONS

Bidder by checking the yes box and signing this bid, agrees to the MacBride provisions, contained in the Purchase Contract at pages 36-38. See the provisions for the effect of non-agreement on your bid.

MacBride Provisions ☐ Yes ☐ No

3. SIGNATURE OF BID

By signing the cover page, bidder agrees to be bound by all the terms and conditions of the bid documents supplied with the bid and documents referenced in the bid documents including but not limited to: Bid Book, Invitation for Bid, Contract Specific Terms and Conditions, Specifications, Schedule of Quantities and Prices, and the Purchase Contract. All documents, including referenced documents may be obtained from the Office of Vendor Relations, 18th floor, Municipal Building, 1 Centre Street, New York, NY 10007.

MATERIAL SAFETY DATA SHEET

Under the New York State Labor Law, Article 28 (the Right To Know Law), Section 876, any manufacturer, importer, producer or formulator of any toxic substance sold for any use within the state must provide, upon request, specific information on the health hazards and proper handling of such substances. The City of New York, in order to meet its responsibilities under the Law as an employer, requires that manufacturers and suppliers submit such information in the form of a Material Safety Data Sheet for any toxic substance or product containing a toxic substance, as a condition of bid consideration, contract award, and purchase.

A "toxic substance", as defined by the Right To Know Law, includes "any substance which is listed in the latest printed edition of the National Institute for Occupational Safety and Health Registry of Toxic Effects of Chemical Substances, or has yielded positive evidence of acute or chronic health hazards in human, animal or other biological testing."

The Material Safety Data Sheet must include the following information: the name or names of the toxic substance, including the generic or chemical name; the trade name of the chemical and any other commonly used name; the level at which exposure to the substance is determined to be hazardous, if known; acute and chronic effects of exposure at hazardous levels; the symptoms of such effects; the potential for flammability, explosion and reactivity of such substance; appropriate emergency treatment; proper conditions for safe use and exposure; and procedures for cleanup of leaks and spills. Additionally the sheet must identify whether the hazardous chemical is a single substance or a mixture which has or has not been tested as a mixture with information required by the Federal Hazard Communication Standard.

LABELING

Products which contain any toxic substance must be properly labeled to meet federal, state and local requirements. Labels must identify the hazardous chemical(s), contain appropriate hazard warnings, name and address of the responsible party (i.e. manufacturer), identify the target organs and the Chemical Abstract Service (CAS) Registry Numbers for the chemical ingredients of the product.

Bid No.: _____

[ ] A Material Safety Data Sheet is required and is submitted for the following items (indicate item title):

_____ _____
_____ _____
_____ _____

Are Chemical Abstract Service (CAS) Registry numbers and identification of affected target organs required on the container/package label?

[ ] Yes [ ] No

CONTRACT

TABLE OF CONTENTS

I. Bid Book (Sectioned into A, B, and C pages)

A Pages: Invitation for Bid, Offer, Vendor Signature and Notarization

B Pages: Contract Specific Terms and Conditions

C Pages: Specifications and Schedule of Quantities and Prices

II. New York City Purchase Contract
(310L/FEBRUARY/2015)

Part I General Definitions

Part II Standard Instructions to Bidders

Part III General Conditions

Part IV Special Conditions

Part V Affirmations

All applicable forms must be completed and submitted with the bid. Non-compliance with any of the bid submission requirements may result in the disqualification of the bid. For a bid to be considered responsive:

1. NO EXCEPTIONS MAY BE TAKEN TO THE NEW YORK CITY PURCHASE CONTRACT.

2. BIDS MUST BE SIGNED. ALL REQUIRED PRICING INFORMATION MUST BE INCLUDED IN THE C PAGES AND BE TYPED OR WRITTEN IN INK.

3. ALL REQUIRED SIGNATURES MUST BE IN INK.

4. ANY ALTERATION OF PRICE (INCLUDING CORRECTION FLUID/TAPE) MUST BE INITIALED IN INK.

OFFER AND ACCEPTANCE

1. FIRM OFFER

The Bidder proposes to furnish and deliver to the City the Goods required under this contract, to provide all labor and services and to perform all other work in connection therewith, all as specified by the terms and conditions of the Contract, based upon the unit prices or lump sum prices in the bid (C Pages).
A submitted bid constitutes an Offer to the City by Bidder to furnish and deliver the Goods or Services specified at the unit or lump sum prices bid. The prices set forth in the bid cannot be revoked and shall be effective until the award of the Contract, unless the bid is modified or withdrawn by written notice received in the office designated to receive bids before the time and date set for bid opening, or, after the expiration of 45 days from bid opening, in advance of an actual award.

The City reserves the right to make awards within 45 days after the date of bid opening during which period the bid may not be withdrawn. If, however, an award is not made within the 45 day period, a bid shall remain in effect until a contract is awarded or the Bidder delivers to the City written notice of the withdrawal of its bid in advance of an actual award.

2. CITY'S ACCEPTANCE

The City shall accept the Offer by mailing to the Bidder at the address specified in the bid a PURCHASE ORDER or NOTICE OF AWARD, for any of the items for which this bid is submitted. An acceptance of the Offer shall constitute a Contract between the City of New York and the Bidder to furnish and deliver to the City the items set forth in the PURCHASE ORDER or NOTICE OF AWARD at the unit prices or lump sum price specified in the bid subject to the terms set forth in the Contract as if said form of Contract had been signed by the Agency Chief Contracting Officer and the Bidder.

3. SUBMISSION OF BID

The completed Bid must be submitted in a sealed envelope on or before the time and at the place indicated in the Invitation for Bids. The envelope must be marked with the name of the person, firm or corporation presenting it, the bid opening date, bid number and bid title. The Bid and all other documents requiring signature must be signed, and the Bid signature on A-1 must be an original signature and notarized. The Bid shall be typewritten or written legibly in ink. The Bid shall be signed in ink. Erasures or alterations, including correction fluid/tape, shall be initialed by the signer in ink. The Bid must be properly signed by an authorized representative of the bidder.

4. FALSE STATEMENT

A false statement willfully or fraudulently made in connection with the bid and/or any of the forms completed and submitted to the City in connection with the bid, may result in the termination of any contract between the City and the Bidder. As a result, the Bidder may be barred from participating in future City contracts as well as be subject to possible criminal prosecution.

5. NEW YORK CITY PURCHASE CONTRACT

Bidder acknowledges receipt of and agrees to be bound by the terms and conditions of the New York City Purchase Contract referenced in the Table of Contents.

6. PROCUREMENT POLICY BOARD RULES

This contract is subject to the Rules of the Procurement Policy Board of the City of New York, as amended. In the event of a conflict between said Rules and a provision of this contract, the Rules shall take precedence. For information and updates on the Procurement Policy Board Rules, bidders are referred to www.nyc.gov/ppb, or the Mayor's Office of Contract Services at 212-788-0010.

7. BID PROCESS

The New York City Comptroller is charged with the audit of contracts in New York City. Any vendor who believes that there has been unfairness, favoritism or impropriety in the bid process should inform the Comptroller, Office of Contract Administration, One Centre Street, Room 835, New York, New York; telephone number (212) 669-2323.

8. PROMPT PAYMENT

The Prompt Payment provisions set forth in Chapter 4, Section 4-06 of the Procurement Policy Board Rules in effect at the time of this solicitation will be applicable to payment made by New York City agencies only under a contract resulting from this solicitation. The provisions require the payment to contractors of interest on payments made after the required payment date except as set forth in subdivisions c(3) and d(3), (4), (5) and (6) of Section 4-06 of the Rules.

The contractor must submit a proper invoice to receive payment, except where the contract provides that the contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment.

Determinations of interest due will be made in accordance with the provisions of Section 4-06 of the Procurement Policy Board Rules and General Municipal Law §3-a.

Pursuant to the Prompt Payment provisions of the Procurement Policy Board Rules, the Division may designate this contract and the items specified herein as subject to a longer acceptance period to afford a practicable opportunity for testing, installation and inspection. For purposes of vendor payment in such case, the actual date of acceptance by the Division's Bureau of Quality Assurance shall substitute for the Invoice Received/Acceptance Date (IRA Date).

9. ELECTRONIC FUNDS TRANSFER

In accordance with Section 6-107.1 of the New York City Administrative Code, the Contractor agrees to accept payments under this Agreement from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, Contractor shall designate one financial institution or other authorized payment agent and shall complete the attached "EFT Vendor Payment Enrollment Form" in order to provide the Commissioner of Finance with information necessary for Contractor to receive electronic funds transfer payments through the designated financial institution or authorized payment

agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Contractor shall constitute full satisfaction by the City for the amount of the payment under this agreement. The account information supplied by the Contractor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by law.

The EFT Vendor Payment Enrollment Form available for download at:

http://www1.nyc.gov/site/finance/about/doing-business-with-nyc-direct-deposit-program.page

(FOR YOUR CONVENIENCE IN PUTTING BID TOGETHER NOT TO BE SUBMITTED WITH YOUR BID)

VENDOR CHECKLIST

Document	Vendor Checklist
Offer	/__/ Signed and Notarized
Material Safety Data Sheet, CF01	/__/ Not Required, Product Not Toxic /__/ Not Required and Attached
OTHER (If Required by Contract Terms)	
Bidder's Certificate	/__/ Not Applicable, None Attached to Bid Book /__/ Completed and Attached
Manufacturer's Certificate	/__/ Not Applicable, None Attached to Bid Book /__/ Completed and Attached
Direct Deposit/Electronic Funds Transfer (EFT) Vendor Payment Enrollment Form	/__/ Completed and Sent to NYC Department of Finance, Treasury Division

BID FORM FOR SECURED TRANSACTIONS

1. Are any of the goods and/or services to be provided by bidder pursuant to this solicitation currently the subject of a security agreement, i.e. an agreement that creates or provides a security interest for a third-party?

Yes ____ No ____

2. If the answer to question 1 above is yes, the bidder shall provide below the name and address of the third-party with which it has entered into the security agreement as well as the name and telephone number of an authorized representative of that third-party solely for the purpose of the City informing that authorized representative to whom it should direct any notifications it may send to the City in furtherance of its security interest.

Name of Entity: _____

Address: _____

_____

_____

Auth. Rep. Name _____

Telephone Number _____

3. Bidder hereby agrees that it shall immediately inform DCAS and provide the information required in paragraph 2 above if at any time after the execution of this document, any of the goods and/or services to be provided by bidder pursuant to this solicitation become subject to a security agreement.

BID FORM FOR SECURED TRANSACTIONS

4. Bidder hereby agrees that it shall promptly notify DCAS if any amount due or to become due to the bidder has been assigned to a third-party holding a security interest. Such notice shall be sent to the Deputy Commissioner for Citywide Procurement with a copy to the General Counsel at the addresses listed below.

Department of Citywide Administrative Services

1 Centre Street

New York, NY 10007

Attn: Deputy Commissioner – Office of Citywide Procurement

and

Department of Citywide Administrative Services

1 Centre Street

New York, NY 10007

Attn: General Counsel

Such notice shall contain the following:

Name of Entity: _____

Address: _____

_____

_____

Auth. Rep. Name _____

Telephone Number _____

BID FORM FOR SECURED TRANSACTIONS

5. Bidder hereby acknowledges and agrees that this form shall be incorporated into any agreement it may be awarded pursuant to this solicitation and it shall remain in compliance with all of the requirements of this form so long as any payments are owed to bidder including payments that are owed after the expiration of the term of the agreement. Failure to comply with the requirements of this form shall be a breach of a material term of the agreement.

BIDDER NAME: _____

BY: _____

TITLE: _____

_____

FED. EMPLOYER I.D. NO. OR SOC. SEC. NO.

DATE: _____

BID FORM FOR SECURED TRANSACTIONS

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

On this_____day of_____, 20__, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that s/he resides at_____, that s/he is the _____of _____, the corporation described in and which executed the above instrument; that s/he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation ; and that s/he signed her/his name thereto by like order.

_____

NOTARY PUBLIC

IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR NEW YORK CITY CONTRACTORS

The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law ("SFL") §165-a and General Municipal Law ("GML") §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:

(a) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

(b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.

A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder's certification.

Each bidder or proposer must certify that it is not on the list of entities engaged in investment activities in Iran created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. In any case where the bidder or proposer cannot certify that they are not on such list, the bidder or proposer shall so state and shall furnish with the bid or proposal a signed statement which sets forth in detail the reasons why such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case by case basis if:

(1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or

(2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

BIDDER'S CERTIFICATION OF COMPLIANCE WITH IRAN DIVESTMENT ACT

Pursuant to General Municipal Law §103-g, which generally prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran, the bidder/proposer submits the following certification:

[*Please Check One*]

BIDDER'S CERTIFICATION

☐ By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer 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 its knowledge and belief, that each bidder/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.

☐ I am unable to certify that my name and the name of the bidder/proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

Dated: _____, New York
_____, 20 __

_____
SIGNATURE

_____
PRINTED NAME

_____
TITLE

Sworn to before me this
_____ day of_____, 20___

_____
Notary Public

Dated:

HIRING AND EMPLOYMENT RIDER:

HIRENYC AND REPORTING REQUIREMENTS

Introduction

This Rider shall apply to all contracts for goods, services, and construction with a value of one million dollars ($1,000,000.00) or more, provided, however, that certain requirements of the Rider shall only apply as indicated below. This Rider addresses the HireNYC process, including reporting obligations under the HireNYC process, and certain other reporting requirements imposed by law. In general, the HireNYC process under this Rider requires the Contractor to enroll with the HireNYC portal for the City of New York ("the City") found within the Department of Small Business Services's ("SBS") website, to disclose all entry to mid-level job opportunities described in this Rider arising from this contract and located in New York City, and to agree to interview qualified candidates from HireNYC for those opportunities.

HireNYC Requirements

A. Enrollment

The Contractor shall enroll with the HireNYC system, found at www.nyc.gov/sbs, within thirty (30) days after the registration of this Contract pursuant to Section 328 of the New York City Charter. The Contractor shall provide information about the business, designate a primary contact and say whether it intends to hire for any entry to mid-level job opportunities arising from this contract and located in New York City, and, if so, the approximate start date of the first hire.

B. Job Posting Requirements

Once enrolled in HireNYC, the Contractor agrees to update the HireNYC portal with all entry to mid-level job opportunities arising from this contract and located in New York City, if any, which shall be defined as jobs requiring no more than an associate degree, as provided by the New York State Department of Labor (see Column F of https://labor.ny.gov/stats/2012-2022-NYS-Employment-Prospects.xls). The information to be updated includes the types of entry and mid-level positions made available from the work arising from the contract and located in New York City, the number of positions, the anticipated schedule of initiating the hiring process for these positions, and the contact information for the Contractor's representative charged with overseeing hiring. The Contractor must update the HireNYC portal with any hiring needs arising from the contract and located in New York City, and the requirements of the jobs to be filled, no less than three weeks prior to the intended first day of employment for each new position, except with the permission of SBS, not to be unreasonably withheld, and must also update the HireNYC portal as set forth below.

After enrollment through HireNYC and submission of relevant information, SBS will work with the Contractor to develop a recruitment plan which will outline the candidate screening process,

and will provide clear instructions as to when, where, and how interviews will take place. HireNYC will screen applicants based on employer requirements and refer applicants whom it believes are qualified to the Contractor for interviews. The Contractor must interview referred applicants whom it believes are qualified.

After completing an interview of a candidate referred by HireNYC, the Contractor must provide feedback via the portal within twenty (20) business days to indicate which candidates were interviewed and hired, if any. In addition, the Contractor shall provide the start date of new hires, and additional information reasonably related to such hires, within twenty (20) business days after the start date. In the event the Contractor does not have any job openings covered by this Rider in any given year, the Contractor shall be required to provide an annual update to HireNYC to that effect. For this purpose, the reporting year shall run from the date of the registration of the contract and each anniversary date.

These requirements do not limit the Contractor's ability to assess the qualifications of prospective workers, and to make final hiring and retention decisions. No provision of this Rider shall be interpreted so as to require the Contractor to employ any particular worker.

In addition, the provisions of this Rider shall not apply to positions that the Contractor intends to fill with employees employed pursuant to the job retention provision of Section 22-505 of the Administrative Code of the City of New York. The Contractor shall not be required to report such openings with HireNYC. However, the Contractor shall enroll with the HireNYC system pursuant to Section A, above, and, if such positions subsequently become open, then the remaining provisions of this Rider will apply.

C. Breach and Liquidated Damages

If the Contractor fails to comply with the terms of the contract and this Rider (1) by not enrolling its business with HireNYC; (2) by not informing HireNYC, as required, of open positions; or (3) by failing to interview a qualified candidate, the contracting agency may assess liquidated damages in the amount of two-thousand five hundred dollars ($2,500.00) per breach. For all other events of noncompliance with the terms of this Rider, the agency may assess liquidated damages in the amount of five hundred dollars ($500) per breach.

Furthermore, in the event the Contractor breaches the requirements of this Rider during the term of the contract, the City may hold the Contractor in default of this contract.

Audit Compliance

In addition to the auditing requirements set forth in other parts of the contract, the Contractor shall permit SBS and the City to inspect any and all records concerning or relating to job openings or the hiring of individuals for work arising from the contract and located in New York City. The Contractor shall permit an inspection within seven (7) business days of the request.

Other Reporting Requirements

The Contractor shall report to the City, on a monthly basis, all information reasonably requested by the City that is necessary for the City to comply with any reporting requirements imposed by law or rule, including any requirement that the City maintain a publicly accessible database. In addition, the Contractor agrees to comply with all reporting requirements imposed by law or rule, or as otherwise requested by the City.

Construction Requirements

Construction contractors shall comply with the HireNYC requirements set forth above for all non-trades jobs (e.g., for an administrative position arising out of the work of the contract and located in New York City) as set forth above.

In addition, construction contractors shall reasonably cooperate with SBS and the City on specific outreach events, including Hire on the Spot events, for the hiring of trades workers for the work of this contract.

Further, this contract shall be subject to a project labor agreement if so required elsewhere in this contract.

Federal Hiring Requirements

The Contractor shall comply with all federal hiring requirements as may be set forth elsewhere in this contract, including, as applicable:

- Section 3 of the HUD Act of 1968, which requires, to the greatest extent feasible, economic opportunities for 30 percent of new hires be given to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- Executive Order 11246, which prohibits discrimination in employment due to race, color, religion, sex or national origin, and requires the implementation of goals for minority and female participation for work involving any Construction trade.

PAID SICK LEAVE LAW CONTRACT RIDER

Introduction and General Provisions

The Earned Sick Time Act, also known as the Paid Sick Leave Law ("PSLL"), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.[1] Contractors of the City of New York or of other governmental entities may be required to provide sick time pursuant to the PSLL.

The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the New York City Administrative Code. It is administered by the City's Department of Consumer Affairs ("DCA"); DCA's rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York ("Rules").

Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this agreement. Contractor further acknowledges that such compliance is a material term of this agreement and that failure to comply with the PSLL in performance of this agreement may result in its termination.

Contractor must notify the Agency Chief Contracting Officer of the City agency or other entity with whom it is contracting in writing within ten (10) days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this agreement. Additionally, Contractor must cooperate with DCA's education efforts and must comply with DCA's subpoenas and other document demands as set forth in the PSLL and Rules.

The PSLL is summarized below for the convenience of Contractor. Contractor is advised to review the PSLL and Rules in their entirety. On the website www.nyc.gov/PaidSickLeave there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which Contractor can get more information about how to comply with the PSLL. Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

Pursuant to the PSLL and the Rules:

Applicability, Accrual, and Use

An employee who works within the City of New York for more than eighty hours in any consecutive 12-month period designated by the employer as its "calendar year" pursuant to the PSLL ("Year") must be provided sick time. Employers must provide a minimum of one hour of sick time for every 30 hours worked by an employee and compensation for such sick time must

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[1] Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant to New York City Administrative Code §20-912(g), such employer has the option of providing such employees uncompensated sick time.

be provided at the greater of the employee's regular hourly rate or the minimum wage. Employers are not required to provide more than forty hours of sick time to an employee in any Year.

An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day. In addition, an employee may carry over up to forty hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than forty hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first day of such Year.

An employee entitled to sick time pursuant to the PSLL may use sick time for any of the following:

- such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;
- such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee's spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;
- closure of such employee's place of business by order of a public official due to a public health emergency; or
- such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSLL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee's use of sick time pursuant to the PSLL must be treated by the employer as confidential.

If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

Exemptions and Exceptions

Notwithstanding the above, the PSLL does not apply to any of the following:

- an independent contractor who does not meet the definition of employee under section 190(2) of the New York State Labor Law;
- an employee covered by a valid collective bargaining agreement in effect on April 1, 2014 until the termination of such agreement;
- an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;
- an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;
- an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;
- an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;
- an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or
- a participant in a Work Experience Program (WEP) under section 336-c of the New York State Social Services Law.

Retaliation Prohibited

An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

Notice of Rights

An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml.

Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed fifty dollars for each employee who was not given appropriate notice.

Records

An employer must retain records documenting its compliance with the PSLL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSLL.

Enforcement and Penalties

Upon receiving a complaint alleging a violation of the PSLL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSLL has occurred, it has the right to issue a notice of violation to the employer.

DCA has the power to grant an employee or former employee all appropriate relief as set forth in New York City Administrative Code 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSLL civil penalties not to exceed $500 for a first violation, $750 for a second violation within two years of the first violation, and $1,000 for each succeeding violation within two years of the previous violation.

More Generous Polices and Other Legal Requirements

Nothing in the PSLL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSLL provides minimum requirements pertaining to sick time and does not preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSLL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

Compliance with HireNYC and Reporting Requirements

The Hiring and Employment Rider shall apply to contracts valued at $1 million or more for all goods, services and construction except human services contracts that are subject to the Public Assistance Hiring Commitment Rider. The Rider describes the Hire NYC process and obligations, including reporting requirements throughout the life of the contract. The Hire NYC process requires contractors to enroll with the Hire NYC system within thirty days after the registration of the contract subject to this solicitation, to provide information regarding all entry to mid-level job opportunities arising from this contract and located in New York City, and to agree to interview qualified candidates from HireNYC for those opportunities. The Rider also includes reporting requirements unrelated to HireNYC.

WHISTLEBLOWER PROTECTION EXPANSION ACT RIDER

1. In accordance with Local Law Nos. 30-2012 and 33-2012, codified at sections 6-132 and 12-113 of the New York City Administrative Code, respectively,

   (a) Contractor shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee relating to this Contract to (i) the Commissioner of the Department of Investigation. (ii) a member of the New York City Council, the Public Advocate, or the Comptroller, or (iii) the City Chief Procurement Officer, ACCO, Agency head, or Commissioner.

   (b) If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of subparagraph (a) of paragraph 1 of this rider, he or she shall be entitled to bring a cause of action against Contractor to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees.

   (c) Contractor shall post a notice provided by the City in a prominent and accessible place on any site where work pursuant to the Contract is performed that contains information about:

      (i) how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Contract; and
      (ii) the rights and remedies afforded to its employees under New York City Administrative Code sections 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Contract.

(d) For the purposes of this rider, “adverse personnel action” includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

(e) This rider is applicable to all of Contractor’s subcontractors having subcontracts with a value in excess of $100,000; accordingly, Contractor shall include this rider in all subcontracts with a value in excess of $100,000.

2. Paragraph 1 is not applicable to this Contract if it is valued at $100,000 or less. Subparagraphs (a), (b), (d), and (e) of paragraph 1 are not applicable to this Contract if it was solicited pursuant to a finding of an emergency. Subparagraph (c) of paragraph 1 is neither applicable to this Contract if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

NOTICE TO BIDDERS, PROPOSERS, CONTRACTORS, AND RENEWAL CONTRACTORS

This contract includes a provision concerning the protection of employees for whistleblowing activity, pursuant to New York City Local Law Nos. 30-2012 and 33-2012, effective October 18, 2012 and September 18, 2012, respectively. The provisions apply to contracts with a value in excess of $100,000.

Local Law No. 33-2012, the Whistleblower Protection Expansion Act ("WPEA"), prohibits a contractor or its subcontractor from taking an adverse personnel action against an employee or officer for whistleblower activity in connection with a City contract; requires that certain City contracts include a provision to that effect; and provides that a contractor or subcontractor may be subject to penalties and injunctive relief if a court finds that it retaliated in violation of the WPEA. The WPEA is codified at Section 12-113 of the New York City Administrative Code.

Local Law No. 30-2012 requires a contractor to prominently post information explaining how its employees can report allegations of fraud, false claims, criminality, or corruption in connection with a City contract to City officials and the rights and remedies afforded to employees for whistleblowing activity. Local law No. 30-2012 is codified at Section 6-132 of the New York City Administrative Code.

NOTICE TO BIDDERS

As of March 2013 the City has implemented a new web based subcontractor reporting system through the City's Payee Information Portal (PIP), available at www.nyc.gov/pip. In order to use the new system, a PIP account will be required. Detailed instructions on creating a PIP account and using the new system are also available at that site. Additional assistance with PIP may be received by emailing the Financial Information Services Agency Help Desk at pip@fisa.nyc.gov.

In order to obtain subcontractor approval under section 3.02 of Appendix A or Article 17 of the Standard Construction Contract and PPB Rule § 4-13 Contractor is required to list the subcontractor in the system. For each subcontractor listed, Contractor is required to provide the following information: maximum contract value, description of subcontractor work, start and end date of the subcontract and identification of the subcontractor's industry. Thereafter, Contractor will be required to report in the system the payments made to each subcontractor within 30 days of making the payment. If any of the required information changes throughout the term of the contract, Contractor will be required to revise the information in the system.

Failure of the Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Agency declaring the Contractor in default of the Contract and will subject Contractor to liquidated damages in the amount of $100 per day for each day that the Contractor fails to identify a subcontractor along with the required information about the subcontractor and/or fails to report payments to a subcontractor, beyond the time frames set forth herein or in the notice from the City. For construction contracts, the provisions of Article 15 of the Standard Construction Contract shall govern the issue of liquidated damages.

Contractor hereby agrees to these provisions.

REPORT

CORRUPTION, FRAUD, UNETHICAL CONDUCT

RELATING TO A NYC-FUNDED CONTRACT

OR PROJECT

CALL THE NYC DEPARTMENT OF INVESTIGATION

212-825-5959

DOI CAN ALSO BE REACHED BY MAIL OR IN PERSON AT:

New York City Department of Investigation (DOI)
80 Maiden Lane, 17th floor
New York, New York 10038
Attention: COMPLAINT BUREAU

OR FILE A COMPLAINT ON-LINE AT:
www.nyc.gov/doi

All communications are confidential

THE LAW PROTECTS EMPLOYEES OF CITY CONTRACTORS WHO REPORT CORRUPTION

- Any employee of a City contractor, or subcontractor of the City, or a City contractor with a contract valued at more than $100,000 is protected under the law from retaliation by his or her employer if the employee reports wrongdoing related to the contract to the DOI.
- **To be protected by this law, an employee must report to DOI − or to certain other specified government officials −** information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract valued at more than $100,000.
- Any employee who makes such a report and who believes he or she has been dismissed, demoted, suspended, or otherwise subject to an adverse personnel action because of that report is entitled to bring a lawsuit against the contractor and recover damages

🡐 Scan the QR Code at Left to File a Complaint

PIN: 8571700027

SPECIAL INSTRUCTION TO BIDDERS
CONTRACT SPECIFIC TERMS AND CONDITIONS

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
DIVISION OF MUNICIPAL SUPPLY SERVICES
MUNICIPAL BUILDING, NEW YORK, NY 10007

BID NUMBER: 1700027.

BID TITLE: LOADER, ARMORED MULTI-TERRAIN - NYPD

ALL INQUIRIES REGARDING THIS BID ARE TO BE DIRECTED TO:
PURCHASING AGENT: KIRKLIVAL L. HENRY AT (212) 386-0438

VENDORS WILL BE SEEN BY APPOINTMENT ONLY

TYPE OF CONTRACT: THIS IS A "C" CONTRACT (REQUIREMENT CONTRACT) AS DEFINED IN THE NEW YORK CITY PURCHASE CONTRACT, PART II, PARAGRAPH 2.8, OR, IF APPLICABLE, THE NEW YORK CITY SERVICE CONTRACT, PART II, PARAGRAPH 2.6.

IN ACCORDANCE WITH THE NEW YORK CITY PURCHASE CONTRACT, PART II, SECTION 5.6 - ALTERNATE PRODUCTS - OR, IF APPLICABLE, THE NEW YORK CITY SERVICE CONTRACT, PART II, SECTION 5.5 - ALTERNATE SERVICES:

A BIDDER MAY NOT BID MULTIPLE PRODUCTS OR SERVICES FOR ONE BID ITEM. IF A BIDDER OFFERS MORE THAN ONE, ONLY THE LOWEST PRICE OFFERING WILL BE CONSIDERED. IF THE PRICE OFFERINGS ARE IDENTICAL, ONLY THE FIRST ITEM LISTED WILL BE CONSIDERED.

PRODUCTS OFFERED SHOULD BE MANUFACTURED FROM RECYCLED, RECOVERED, OR ENVIRONMENTALLY PREFERABLE MATERIALS TO THE MAXIMUM EXTENT POSSIBLE PROVIDED THAT THE PRODUCT MEETS ALL SPECIFICATIONS AND PERFORMANCE CRITERIA AND PROMOTES ECONOMICALLY ADVANTAGEOUS LIFE CYCLE COSTS.
ALL ITEMS AWARDED UNDER THIS CONTRACT MUST BE IN COMPLIANCE WITH THE NEW YORK CITY MAYOR'S EXECUTIVE ORDER NO. 113 (1988), "PROHIBITION OF THE PURCHASE OF PRODUCTS MADE OF POLYSTYRENE FOAM."

WHENEVER PRACTICABLE, PACKAGING SHALL ELIMINATE WASTE; REDUCE WASTE BY WEIGHT, VOLUME AND TOXICITY WITHOUT SUBSTITUTING A MATERIAL THAT IS NOT RECYCLABLE; AND SHOULD CONTAIN RECYCLED CONTENT.

THE CITY RESERVES THE RIGHT TO DISAPPROVE ANY PROVIDER(S) OF GOODS AND/OR SERVICES USED BY THE PRIME VENDOR/CONTRACTOR TO FULFILL ANY CONTRACT RESULTING FROM THIS SOLICITATION. AS USED IN THIS SECTION, A "PROVIDER" SHALL INCLUDE, BUT NOT BE LIMITED TO, A SUBCONTRACTOR, A SUPPLIER OF GOODS AND/OR SERVICES, AND THE MANUFACTURER(S) OF ANY GOODS BEING PROCURED UNDER SUCH CONTRACT. A VENDOR WHO IS AWARDED A CONTRACT PURSUANT TO THIS SOLICITATION MAY, AT THE CITY'S OPTION, BE ASKED TO PROVIDE TO THE CITY A LIST OF PROVIDERS AND, FOR EACH PROVIDER, ITS ADDRESS AND THE NAME OF ITS PRINCIPALS.

IN ADDITION, THE VENDOR MAY BE ASKED TO PROVIDE, ANY OTHER INFORMATION DEEMED NECESSARY BY THE CITY TO DETERMINE WHETHER A PROVIDER SHALL BE DISAPPROVED. FURTHERMORE, DURING THE TERM OF SUCH CONTRACT, THE VENDOR MAY BE ASKED TO SUPPLY TO THE CITY ALL SUCH INFORMATION REGARDING ANY ADDITIONAL PROVIDER(S) IT INTENDS TO USE.

THE CITY RESERVES THE RIGHT TO WITHDRAW ANY APPROVAL IT HAS GIVEN, WHERE SUCH WITHDRAWAL OF APPROVAL IS BASED ON INFORMATION RECEIVED SUBSEQUENT TO THE APPROVAL. THE VENDOR MAY NOT USE A PROVIDER THAT HAS BEEN DISAPPROVED BY THE CITY OR WHOSE APPROVAL HAS BEEN WITHDRAWN.

PURSUANT TO PROCUREMENT POLICY BOARD RULE 2-08(F)(2),THE CONTRACTOR WILL BE CHARGED A FEE FOR THE ADMINISTRATION OF THE VENDEX SYSTEM, INCLUDING THE VENDOR NAME CHECK PROCESS, IF A VENDOR NAME CHECK REVIEW IS REQUIRED TO BE CONDUCTED BY THE DEPARTMENT OF INVESTIGATION. THE CONTRACTOR SHALL ALSO BE REQUIRED TO PAY THE APPLICABLE REQUIRED FEES FOR ANY OF ITS SUB-CONTRACTORS FOR WHICH VENDOR NAME CHECK REVIEWS ARE REQUIRED. THE FEE(S) WILL BE DEDUCTED FROM PAYMENTS MADE TO THE CONTRACTOR UNDER THE CONTRACT.

FOR CONTRACTS WITH AN ESTIMATED VALUE OF LESS THAN OR EQUAL TO $1,000,000, THE FEE WILL BE $175.

FOR CONTRACTS WITH AN ESTIMATED VALUE OF GREATER THAN $1,000,000, THE FEE WILL BE $350.

THE PURPOSE OF THIS CONTRACT IS TO PROCURE LEVEL IV ARMORED MULTI-TERRAIN LOADER FOR THE CITY OF NEW YORK.

SPECIAL NOTE:
THIS CONTRACT IS FOR THE SOLE USE OF THE NEW YORK CITY POLICE DEPARTMENT(NYPD) AND LAW ENFORCEMENT AGENCIES.
LAW ENFORCEMENT AGENCIES DESIRING TO UTILIZE THIS AGREEMENT MUST FIRST OBTAIN WRITTEN APPROVAL FROM THE NEW YORK CITY POLICE DEPARTMENT (NYPD) AND THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES OFFICE OF CITYWIDE PROCUREMENT (DCAS/OCP).

PERFORMANCE PERIOD:
THE PERIOD OF OF CONTRACT SHALL BE, DECEMBER 2, 2016 THRU DECEMBER 1, 2019.

THE CITY RESERVES THE RIGHT, PRIOR TO CONTRACT REGISTRATION, TO CHANGE (ADJUST) THE START AND END DATES AS NOTED ABOVE. THE CITY FURTHER RESERVES THE RIGHT TO CHANGE (ADJUST) THESE DATES AFTER CONTRACT REGISTRATION TO REFLECT THE ACTUAL COMPTROLLER'S REGISTRATION DATE.

CONTRACT QUANTITIES:
QUANTITIES SPECIFIED HEREIN ARE ESTIMATES BASED ON EXPERIENCE. THE QUANTITIES TO BE ORDERED ARE ONLY THOSE NEEDED BY THE AGENCY.
THE CITY WILL NOT BE COMPELLED TO ORDER ANY SPECIFIC QUANTITY OF ANY ITEM NOR WILL THE CITY BE LIMITED TO THE QUANTITY SPECIFIED.

BASIS FOR AWARD:
THE AWARD, FOR ITEM(S)/CLASSES IN THIS SCHEDULE, SHALL BE BASED ON THE LOWEST, RESPONSIBLE AND RESPONSIVE BIDDER, MEETING OR EXCEEDING SPECIFICATIONS FOR OVERALL VEHICLE PERFORMANCE.

LAWS/REGULATIONS:
VEHICLES SUPPLIED SHALL MEET OR EXCEED ALL ALL APPLICABLE FEDERAL, STATE AND LOCAL EMISSION STANDARDS. VEHICLE SUPPLIED SHALL CONFORM TO ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND/OR REGULATIONS FOR VEHICLES IN ITS CLASS.

DELIVERY SCHEDULE:

PILOT UNIT SHALL BE PRESENTED FOR INSPECTION WITHIN ONE HUNDRED AND FORTY (140) CALENDAR DAYS AFTER THE RECIEPT OF PURCHASE ORDER.

FOLLOWING THE ACCEPTANCE OF PILOT UNIT, VEHICLES ARE DUE AT THE MINIMUM RATE OF FOUR (4) PER THIRTY (30) DAY PERIOD UNTIL PURCHASE ORDER QUANTITY IS FULFILLED.

DELIVERY LOCATION WILL BE INDICATED ON PURCHASE ORDER OR SHIPPING INSTRUCTION AS PER PROCURING AGENCY.

WARRANTY:
WARRANTY SHALL MEET OR EXCEED THAT OF WHICH IS WRITTEN IN THE ATTACHED SPECIFICATION.

WARRANTY SHALL BE 100% PARTS, LABOR AND TRANSPORTATION.

BIDDER CERTIFICATE:
EACH BIDDER MUST INDICATE THE MANNER IN WHICH THE BID SPECIFICATION(S) WILL BE MET BY COMPLETELY AND COMPETENTLY FILLING OUT THE "BIDDERS CERTIFICATE" ATTACHED TO OR FOUND WITHIN THE BID SPECIFICATION(S), AND SUBMITTING IT WITH THE BID PROPOSAL.
THE BIDDERS CERTIFICATE SHALL BECOME AN INTEGRAL PART OF THIS CONTRACT AND SCHEDULE. THERE SHALL BE "NO" SUBSTITUTION OR MODIFICATION OF BID SPECIFICATIONS WITHOUT THE WRITTEN CONSENT OF THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES OFFICE OF CITYWIDE PROCUREMENT.

SOLICITATION PACKAGE:
WHEN SUBMITTING AN OFFER, THE SOLICITATION PACKAGE MUST BE RETURNED WITH ALL PAGES INTACT AND IN SEQUENCE AS ORIGINALLY RECEIVED.
FAILURE TO SUBMIT ANY PAGE(S) NOT MARKED FOR RETENTION MAY RESULT IN THE DISQUALIFICATION OF THE SOLICITAION PACKAGE.
ALSO, IN ORDER FOR YOUR BID TO BE CONSIDERED, THE "BIDDER AFFIRMATION" ON PAGE A-2 OF THE BIDBOOK MUST BE EXECUTED.

QUALIFICATIONS OF BIDDERS:
BID WILL BE ACCEPTED ONLY FROM MANUFACTURER OR OR THEIR AUTHORIZED DISTRIBUTORS WHO HAVE BEEN ACTIVELY ENGAGED IN THE SALE OR MANUFACTURE OF VEHICLES AND/OR EQUIPMENT FOR A PERIOD OF NOT LESS THAN FIVE (5) YEARS.

PLANS:
THIS VEHICLE SPECIFICATION REQUIRES THE SUBMISSION PLANS.

PLANS MUST BE APPROVED PRIOR TO CONSTRUCTION OF THE PILOT.

UPON ISSUANCE OF THE INITIAL PURCHASE ORDER OR AT THE REQUEST OF THE PROCURING AGENCY, AFTER AWARD, A MEETING WILL BE SCHEDULED WITHIN FOURTEEN (14) CALENDER DAYS TO REVIEW AND APPROVE PLANS.
CONTRACTOR SHALL, WITHIN SEVEN (7) DAYS OF SCHEDULED MEETING, PROVIDE TWO (2) SETS OF PLANS, ONE (1) EACH TO THE ADDRESSES BELOW.

NEW YORK POLICE DEPARTMENT
ATT: JAMES KOROTKI
55-15 58TH STREET
WOODSIDE, NY 11337

OFFICE OF CITYWIDE PROCUREMENT
BUREAU OF QUALITY ASSURANCE
1 CENTRE STREET - 18FL
NEW YORK,
NY 10007

NOTWITHSTANDING ANY PROVISIONS CONTAINED IN THIS CONTRACT, THE USING AGENCY, IN CONJUNCTION WITH AND WITH THE APPROVAL OF THE CITY OF NEW YORK'S DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES, OFFICE OF CITYWIDE PROCUREMENT, MAY ADJUST THE DELIVERY SCHEDULE BASED ON PILOT INSPECTIONS, CHANGES, ELABORATIONS AND/OR CLARIFICATIONS IN SPECIFICATIONS.
THIS PROVISION SHALL ALSO APPLY TO ENGINEERING CHANGES THAT REQUIRE COMPLIANCE WITH FEDERAL, STATE OR LOCAL MOTOR VEHICLE SAFETY STANDARDS.

LIQUIDATED DAMAGES:
IN CASE THE CONTRACTOR, THROUGH ITS OWN FAULT OR NEGLIGENCE, AND NOT THE FAULT OR NEGLIGENCE OF THE CITY, SHALL FAIL TO COMPLETE DELIVERY IN ACCORDANCE WITH THIS CONTRACT, AND TO THE SATISFACTION OF THE COMMISSIONER, WITHIN THE TIMEFRAME SPECIFIED IN THIS CONTRACT, LIQUIDATED DAMAGES MAY BE APPLIED AT THE RATE OF TWO HUNDRED DOLLARS ($200.00) PER UNIT, FOR EACH AND EVERY DAY PAST THE CONTRACT SPECIFIED DELIVERY TIMEFRAME.
ALL CALCULATIONS SHALL BE BASED ON THE DATE THE ORDER WAS ACCEPTED INTO THE CITY'S FINANCIAL MANAGEMENT SYSTEM (FMS).

LIQUIDATED DAMAGES CALCULATED IN THIS MANNER WILL BE CONSIDERED REASONABLE REMUNERATION FOR UNACCEPTABLE DELAYS IN THE DELIVERY OF THE VEHICLES.

MANUFACTURER'S STANDARD:
EQUIPMENT DELIVERED SHALL BE MANUFACTURER'S STANDARD OR AS MAY BE MODIFIED TO MEET THE SPECIFICATION.
IT SHALL BE EQUIPPED WITH THE MANUFACTURER'S ACCESSORIES WHICH ARE INCLUDED AS STANDARD IN THE ADVERTISED AND PUBLISHED LITERATURE. NO SUCH ITEM OF EQUIPMENT OR ACCESSORIES SHALL BE REMOVED OR OMITTED FOR THE PURPOSE OF MEETING COMPETITION OR FOR ANY REASON THAT WAS NOT SPECIFIED IN THE SOLICITATION PACKAGE.

CONDITION OF DELIVERY:
(1)VEHICLES SHALL BE COMPLETELY SERVICED. SERVICING TO INCLUDE BUT NO LIMITED TO THE FOLLOWING; ENGINE, LUBRICATION, WHEEL ALIGNMENT AND BALANCING, ELECTRICAL INSPECTION, BODY CONDITIONING AND ALL OTHER INSPECTIONS AND TESTS NORMALLY PERFORMED ON A NEW VEHICLE. THE ABOVE INSPECTIONS MAY BE DONE AT THE MANUFACTURER'S ASSEMBLY PLANT WITH THE EXCEPTION OF WHEEL ALIGNMENT AND FINAL DETAILING SHALL BE PERFORMED IN THE CITY OF NEW YORK OR ADJOINING AREAS.

(2) VEHICLES SHALL BE PROTECTED WITH PERMANENT TYPE ANTI-FREEZE TO MINUS 35 DEGREES F. THE ENGINE SHALL BE TAGGED TO INDICATE THE TYPE OF ANTI-FREEZE AND DEGREES OF PROTECTION.

(3) VEHICLES SHALL BE DELIVERED WITH FUEL GAUGE REGISTERING FULL TANK OF FUEL.

WHEN DELIVERED, EACH VEHICLE/APPARATUS MUST BE COMPLETELY ASSEMBLED, SERVICED AND READY FOR OPERATION. THIS INCLUDES ANY AUXILIARY UNITS ATTACHED OR MOUNTED TO BASIC UNIT. ANY EXPOSED CHAIN OR GEAR SHALL BE PROVIDED WITH A SUITABLE GUARD.

TITLE AND RISK OF LOSS WILL REMAIN THE CONTRACTOR'S UNTIL THE COMPLETE UNIT IS DELIVERED AND ACCEPTED BY THE CITY.

UPON DELIVERY VENDOR SHALL PROVIDE ALL FORMS REQUIRED BY THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES TO REGISTER AND OBTAIN THE TITLE OF THE VEHICLE.

UNLESS OTHERWISE INSTRUCTED, THE AGENCY NAMED ON THE TITLE AND REGISTRATION FORMS WILL BE THE SAME AS THE AGENCY NAMED ON THE PURCHASE ORDER.

THE PURCHASE ORDER NUMBER MUST BE CLEARLY IDENTIFIED ON EACH DOCUMENT. A COPY OF THE PURCHASE ORDER WILL BE ACCEPTABLE. IF THE PURCHASE ORDER IS NOT IDENTIFIED THE DOCUMENTS WILL BE RETURNED.

INVOICE IS TO BE SENT TO THE ADDRESS INDICATED ON THE PURCHASE ORDER.

INSPECTION:
INSPECTION OF ALL CONSTRUCTION OR EQUIPMENT SHALL BE PERFORMED BY THE OFFICE OF CITYWIDE PROCUREMENT'S BUREAU OF QUALITY ASSURANCE (BQA) AND REPRESENTATIVES OF THE PROCURING AGENCY. INSPECTION MAY TAKE PLACE AT THE FINAL POINT OF DELIVERY OR AT THE CONTRACTOR'S OR A SUBCONTRACTOR'S FACILITY.

BQA CONTACT INFORMATION:

TEL: 212-386-0405/0065
EML: BQA@DCAS.NYC.GOV

NO FINAL ACCEPTANCE SHALL BE MADE BY THE CITY UNLESS ACCEPTANCE HAS BEEN MADE BY THE OFFICE OF CITYWIDE PROCUREMENT BUREAU OF QUALITY ASSURANCE AND THE PROCURING AGENCY, AFTER TEST AND INSPECTION

CONTRACTOR SHALL NOTIFY THE BUREAU OF QUALITY ASSURANCE AND THE PROCURING AGENCY AS TO WHEN ANY MATERIAL WILL BE READY FOR INSPECTION IN THE FIELD. SUCH NOTICE SHALL BE GIVEN A MINIMUM OF FOURTEEN (14) DAYS IN ADVANCE OF THE REQUESTED INSPECTION DATE.

ANY RECEIPT GIVEN TO THE CONTRACTOR BY A REPRESENTATIVE OF THE PROCURING AGENCY AT THE TIME OF DELIVERY SHALL NOT CONSTITUTE FINAL OR OFFICIAL CITY ACCEPTANCE.

DESCRIPTIVE LITERATURE:
DESCRIPTIVE LITERATURE AND COMPLETE PRODUCT SPECIFICATIONS FOR EACH ITEM OFFERED SHOULD ACCOMPANY EACH BID.

EACH BIDDER MAY BE REQUIRED TO SUPPLY ADDITIONAL PRODUCT INFORMATION FOR ITEMS OFFERED.

THIS VEHICLE/EQUIPMENT AND ANY RELATED POWER ATTACHMENTS MUST COMPLY WITH ALL FEDERAL, STATE AND NEW YORK CITY LAWS REGARDING THE REDUCTION OF EMISSIONS FROM DIESEL POWERED VEHICLES AND EQUIPMENT USING THE BEST AVAILABLE EPA VERIFIED TECHNOLOGY IN ACCORDANCE WITH THE TIMELINES ESTABLISHED THEREIN.

PRICE ADJUSTMENT:
AN ADJUSTMENT IN PRICE MAY BE PERMITTED IF A GOVERNMENT MANDATED PROGRAM (E.G., NEW STANDARD FOR EMISSIONS) TAKES EFFECT, SUITABLE DOCUMENTATION IS FURNISHED TO THE NYC DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES (DCAS) AND DCAS DETERMINES THE REQUESTED PRICE CHANGE IS VERIFIABLE AND IS REASONABLE. THE EFFECTIVE DATE FOR THE PRICE INCREASE WILL BE AS INDICATED IN THE CONTRACT MODIFICATION LETTER.
NO PRICE ADJUSTMENT BECOMES EFFECTIVE WITHOUT THE PRIOR WRITTEN APPROVAL OF THE NYC DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES (DCAS).

FOR THE TERM OF THE CONTRACT AN ADJUSTMENT IN PRICE MAY BE PERMITTED IF THE AGENCY REQUESTS UPGRADES TO THE EQUIPMENT OR A MANUFACTURER'S PRICE INCREASE TAKES EFFECT DURING THE SUBSEQUENT MODEL YEARS. SUITABLE DOCUMENTATION SHALL BE FURNISHED TO OFFICE OF CITYWIDE PROCUREMENT TO JUSTIFY ANY PRICE INCREASE.

THE VEHICLE, WHEN DELIVERED, MUST MEET ALL APPLICABLE FEDERAL, NEW YORK STATE AND NEW YORK CITY LAWS (INCLUDING, FOR EXAMPLE, BUT NOT LIMITED TO, SECTION 86.004-11 OF THE CODE OF FEDERAL REGULATIONS).

AT THE TIME OF BID SUBMISSION, VENDOR MUST INCLUDE IN BID THE PRICING FOR ALL KNOWN TECHNOLOGIES REQUIRED TO MEET THE CURRENT REGULATIONS AND THE PRICING FOR ANY TECHNOLOGY ALREADY DEVELOPED TO MEET FUTURE REQUIREMENTS.

IF, AFTER ISSUANCE OF A PURCHASE ORDER UNDER THIS CONTRACT, NEW GOVERNMENTAL REGULATIONS ARE PROMULGATED AND NEW EQUIPMENT IS REQUIRED TO MEET THESE REGULATIONS AND THE EXTRA COST FOR THIS EQUIPMENT WAS NOT ANTICIPATED, AND COULD NOT HAVE BEEN ANTICIPATED, WHEN THE BID WAS SUBMITTED AND THE PURCHASE ORDER WAS ISSUED, AWARDED VENDOR MAY BE ELIGIBLE FOR A PRICE INCREASE ON THE PURCHASE ORDER. PLEASE BE ADVISED THAT IF NO NEW TECHNOLOGY IS REQUIRED, VENDOR WILL NOT BE ELIGIBLE FOR A PRICE INCREASE.

THE FOLLOWING MINIMAL REQUIREMENTS MUST BE MET FOR DCAS TO CONSIDER A PRICE INCREASE:

(I) VENDOR MUST SUBMIT A LETTER REQUESTING THE INCREASE, STATING THE DOLLAR AMOUNT OF THE INCREASE AND SPECIFICALLY STATING WHAT THE INCREASE WILL COVER;

(II) VENDOR MUST INCLUDE A CERTIFICATION FROM THE REGULATORY AUTHORITY THAT THE PROPOSED SOLUTION BRINGS THE VEHICLE IN COMPLIANCE WITH THE CURRENT EMISSION LAWS.

(III) MANUFACTURER'S INVOICE SHOWING THE VENDOR'S TOTAL COST FOR THE EQUIPMENT, INCLUDING INSTALLATION. VENDOR CANNOT CHARGE THE CITY MORE THAN 10 % ABOVE THE VENDOR'S COST FOR THE EQUIPMENT, INCLUDING INSTALLATION.

THE REQUEST FOR THE PRICE INCREASE AND ALL SUPPORTING DOCUMENTATION SHALL BE SENT IN WRITING TO:
AGENCY CHIEF CONTRACTING OFFICER (ACCO)
DEPT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF CITYWIDE PROCURMENT
1 CENTRE STREET, 18TH FLOOR
NEW YORK, NY 10007

A MINIMUM OF 30 DAYS ADVANCE NOTICE IS REQUIRED FOR ALL SUCH REQUESTS.

THE DETERMINATION TO APPROVE A PRICE INCREASE REQUEST WILL BE AT THE SOLE DISCRETION OF THE AGENCY CHIEF CONTRACTING OFFICER (ACCO)

THE PRICE INCREASE, IF APPROVED, WILL BE REFLECTED IN A WRITTEN MODIFICATION TO THE CONTRACT. THE EFFECTIVE DATE OF THE PRICE INCREASE WILL BE AS STATED IN THE MODIFICATION.

ADDITIONAL OPTIONS:
VEHICLES/EQUIPMENT MAY BE ORDERED WITH ADDITIONAL OEM AND/OR NON-OEM OPTIONS.
OEM OPTIONS INSTALLED SHALL BE AT DEALER COST PLUS A MARK-UP NOT EXCEEDING TEN PERCENT (10%).
NON-OEM OPTIONS INSTALLED SHALL BE AT DEALER COST PLUS A MARK-UP NOT EXCEEDING PERCENT (10%).

OEM AND NON-OEM OPTIONS OFFERED SHALL NOT RESULT IN A CHANGE/SUBSITUTION OF CHASIS AND/OR MATERIAL CHANGE.
GROSS VEHICLE WEIGHT RATING (GVWR) SHALL REMAIN WITHIN THE RANGE ALLOWED FOR THE CLASS OF CONTRACTED VEHICLE.

ANY AND ALL ADDITONAL OPTIONS PROVIDED SHALL BE COVERED BY THE WARRANTY TERMS AND CONDITIONS AS STIPULATED IN THE ORIGINAL AGREEMENT.

BE ADVISED:
ANY AND ALL OEM/NON-OEM ADDITIONAL OPTIONS NOT LISTED IN THE SPECIFICATION MUST BE APPROVED BY THE OFFICE OF CITYWIDE PROCUREMENT (OCP) PRIOR TO INSTALLATION.

REQUEST FOR APPROVAL AND RELATED DOCUMENTATION SHALL BE SENT TO:

OFFICE OF CITYWIDE PROCUREMENT/FLEET
ATTN: FLEET PURCHASE DIRECTOR
1 CENTRE STREET - 18 FL
NEW YORK, NY 10007

USAGE REPORT:
UPON REQUEST BY THE OFFICE OF CITYWIDE PROCUREMENT, A USAGE REPORT DETAILING PROCURING AGENCIES, QUANTITIES ORDERED, DESCRIPTION AND DOLLAR VALUE SHALL BE SUBMITTED WITHIN SEVEN (7) BUSINESS DAYS OF THE RECEIPT OF WRITTEN REQUEST.

THE USAGE REPORT SHALL BE SENT IN THE FORMAT AND TO THE ADDRESS AS SPECIFIED BY THE REQUESTING AGENCY.

NOTE:
THIS CONTRACT MAY BE SUBJECT TO VENDEX PRIOR TO AWARD. SHOULD VENDEX BE REQUESTED, VENDOR IS ADVISED THAT THE REQUESTED INFORMATION WILL BE REQUIRED WITHIN 30 (THIRTY) DAYS.

FAILURE TO RESPOND IN THE THIRTY DAY TIME FRAME MAY BE CAUSE FOR BID DISQUALIFICATION.

VENDEX FORMS ARE AVAILABLE FOR DOWNLOAD FROM:

WWW.NYC.GOV/VENDEX

PLEASE SEE PAGE B002 FOR ADDITIONAL VENDEX INFORMATION.

DESCRIPTION	QUANTITY	UOI	UNIT PRICE	EXTENSION

CLASS/ZONE AWARD 1

THE VEHICLES EXTERIOR COLOR SHALL BE SELECTED BY THE PROCURING AGENCY FROM THE MANUFACTURER'S COLOR CHART.
THE INTERIOR COLOR SHALL BE BLACK, IF BLACK IS UNAVAILABLE, WRITTEN APPROVAL MUST BE OBTAINED FROM THE PROCURING AGENCY AUTHORIZING THE USE OF AN ALTERNATE INTERIOR COLOR.

ALL VEHICLES SHALL BE EQUIPPED WITH ALL STANDARD EQUIPMENT FOR THE MODEL SPECIFIED. THE VENDOR SHALL NOT DELETE ANY STANDARD ITEMS WITHOUT THE WRITTEN REQUEST OF THE PROCURING AGENCY AND WRITTEN APPROVAL FROM THE OFFICE OF CITYWIDE PROCUREMENT. VEHICLE SHALL BE DELIVERED WITH ALL EQUIPMENT AND ACCESORIES AS STATED IN THE ATTACHED SPECIFICATION UNLESS OTHERWISE STATED BY THE PROCURING AGENCY.

BEFORE DELIVERY THE VEHICLES SHALL BE COMPETENTLY SERVICED AND PREPARED FOR IMMEDIATE USED.

CONTRACT QUANTITIES:
QUANTITIES SPECIFIED HEREIN ARE ESTIMATES BASED ON EXPERIENCE. THE QUANTITIES TO BE ORDERED ARE ONLY THOSE NEEDED BY THE PROCURING AGENCY.
THE CITY WILL NOT BE COMPELLED TO ORDER ANY SPECIFIC QUANTITY OF ANY ITEM NOR WILL THE CITY BE LIMITED TO THE QUANTITY SPECIFIED.

ITEM NUMBER: 1. ARMORED MULTI-TERRAIN LOADER - LEVEL IV AS PER ATTACHED SPECIFICATION: LEVEL IV ARMORED MULTI-TERRAIN LOADER DATED: JULY 1, 2016.	15.	EACH	$_____	$_____
MANUFACTURER:..... MODEL #.....				
ITEM NUMBER: 2. CANCIEVER, (VEHICLE FUEL INFORMATION SYSTEM) AS PER ATTACHED SPECIFICATION: LEVEL IV ARMORED MULTI-TERRAIN LOADER DATED: JULY 1, 2016. ITEM 2.	15.	EACH	$_____	$_____

DESCRIPTION	QUANTITY	UOI	UNIT PRICE	EXTENSION
ITEM NUMBER: 3. RADIO FREQUENCY VEHICLE ID (RFID) BOX AS PER ATTACHED SPECIFICATION: LEVEL IV ARMORED MULTI-TERRAIN LOADER DATED: JULY 1, 2016. ITEM 3.	5.	EACH	$_____	$_____
ITEM NUMBER: 4. DIAGNOSTIC SCAN TOOL. AS PER ATTACHED SPECIFICATION: LEVEL IV ARMORED MULTI-TERRAIN LOADER DATED: JULY 1, 2016. ITEM 4.	5.	EACH	$_____	$_____

TOTAL CLASS OR ZONE AWARD (ITEMS 1.00 THRU 4.00) 1 .....$_____

CASH DISCOUNTS

OFFERS OF CASH DISCOUNTS WILL NOT BE CONSIDERED IN MAKING AN AWARD. PLEASE NOTE BELOW IF YOU OFFER A CASH DISCOUNT AND, IF SO, THE DISCOUNT TERMS.

YES ..... NO ..... DISCOUNT TERMS ..... % ..... DAYS

POLICE DEPARTMENT
CITY OF NEW YORK

July 1st, 2016
Level IV Armored Multi-Terrain Loader

INTENT:

It is the intent of this specification to describe a Level IV Armored Multi-Terrain Loader. This Multi-Terrain Loader shall be deployed during high risk tactical incidents that may involve heavily armed suspects. This vehicle shall be exposed to the most severe service**.** In the selection of components for use in the vehicle, the vendor must choose material and design practices that are the best available in the industry. The components used must be selected to not only meet the minimum requirements of this specification, but to give maximum performance, service life and safety.

GENERAL INSTRUCTIONS FOR BIDDERS:

These specifications cover furnishing of the manufacturer's latest model year of vehicle. The vehicles must include all equipment outlined in the specification including equipment normally sold and marketed to the retail public unless specifically deleted within the specification. Vehicles must be delivered ready for use with all specified equipment installed and operating. The specifications require the doing of all things necessary, proper for or incidental to the furnishing and delivery of said vehicles and associated equipment. All things not expressly mentioned but involved in carrying out the intent of the specifications are required and the vendor must perform them as if they were specifically mentioned, described and delineated. It is incumbent upon the primary vendor to contact the NYPD, Fleet Services Division, Technical Services Office by telephone at (718) 476-1880 should any questions or problems arise in the construction of the vehicles for clarification before proceeding. A preconstruction meeting must take place two (2) weeks after contract has been awarded.

WARRANTY:

Warranty terms must be a manufacturer/OEM warranty, no aftermarket or non manufacturer’s warranty shall be accepted. A full thirty six (36) month warranty on the Multi-Terrain Loader, a twelve (12) month warranty on the cameras, camera system and electronic equipment and a four (4) year warranty on all glass must be provided.

WARRANTY START DATE:

The warranty start date of the vehicle and related equipment shall be the date said vehicle is placed in service by the NYPD. **Warranty start date shall not be the date the vehicle was sold and/or delivered by the vendor.** The NYPD, Fleet Services Division, Technical Services Office shall input or provide the actual warranty start date on manufacturer’s “Delayed Warranty Start Date” forms or through the manufacturer’s

designated website. If user ID and passwords are required for website submissions, they must be supplied by the primary vendor.

DELIVERY REGULATIONS:

Vehicles must be delivered ready for immediate use. Vehicles must be fully serviced, cleaned, dealer prepared and conditioned. If a vehicle is delivered incomplete for any reason, the vehicle may be refused. Delivery must be made in accordance with the regulations outlined below. Any variations must be approved by the NYPD, Fleet Services Division, Technical Services Office.

A- Vehicle must be made ready for inspection and approval at the NYPD, Fleet Services Division, New Car Section, 53-15 58th Street, Woodside, N.Y. 11377 within one hundred and fifty (150) days after the "Sent to Vendor" date on purchase order.

B- Vehicles must be delivered with a full tank(s) of fuel.

C- Vehicles must be delivered Monday through Friday between the hours of 0700 and 1300 (7:00 AM and 1:00 PM) at the NYPD, Fleet Services Division, New Car Section or other designated location within the five boroughs of the City of New York.

D- All vehicle delivery paperwork must be completely filled out and present with vehicle at time of delivery. Delivery paperwork consists of but not limited to certificate of origin and bill of sale. Wherever name and address are required the following must be used:

N.Y.C. Police Department
53-15 58 Street
Woodside, N.Y. 11377

E- At time of delivery, and before acceptance, a preliminary inspection of each vehicle shall be conducted in the presence of the vendor's representative. Vehicles that are not accepted must be removed by the vendor within one (1) business day.

F- Each vehicle shall be subjected to a subsequent complete mechanical inspection. If any mechanical defects are found, the vendor shall be required to remove the vehicle within one (1) business day after notification for correction of the fault(s).

G- Vehicles must be delivered with four (4) complete sets of keys. Four (4) complete sets of keys must be interpreted to mean four (4) complete sets of keys to open, unlatch, gain entrance to and lock any and all doors and compartments that are fitted with locks and the vehicle ignition switch.

H- Before any delivery, a telephone notification must be made to the NYPD, Fleet Services Division, New Car Section at (718) 476-7597. A fax notification must also be sent to the NYPD, Fleet Services Division, Technical Services Office, fax number (718) 476-2457 and Department of Citywide Administrative Services / Bureau of Quality Assurance (DCAS/BQA) fax number (212) 669-7523, forty eight (48) hours prior to any deliveries.

The fax must contain the company's name, purchase order number and Vehicle Identification Number of all vehicles being delivered.

SPECIFICATIONS FOR AN ARMORED MULTI-TERRAIN LOADER IN ACCORDANCE WITH THE FOLLOWING:

Item # 1.00 **Description:** A fully armored front loader equipped with specialized equipment to operate in hostile areas while protecting police officers.

1.00 Chassis Requirements: Chassis must be a Caterpillar 287C Multi-loader, or equal.

1.10 Operating Weight: Operating vehicle weight rating must be a minimum thirteen thousand pounds (13,000lbs) without devices.

1.20 Vehicle Width: The minimum vehicle width must be seventy eight inches (78").

1.30 Maximum Overall Height: The maximum overall height must not exceed one hundred sixty inches (160"). This does not include the tactical platform or additional attachments.

1.40 Minimum Ground Clearance: The Multi-Terrain Loader must have a minimum ground clearance of eight point five inches (8.5").

1.50 Hydraulic Power: The Multi-Terrain Loader must have a maximum hydraulic pressure of four thousand sixty one pounds per square inch (4061 PSI).

1.60 Transmission: Must be a hydrostatic transmission capable of forward and reverse with two (2) speeds and must not exceed ten miles per hour (10mph).

1.70 Fuel Tank: Fuel tank must be a minimum twenty six (26) gallons.

1.80 Drive System: Vehicle must be equipped with rubberized tracks on both left and right side designed to propel and turn the vehicle.

1.90 Owner's/Owner/Repair Manuals: Vendor must provide one set of repair/parts manuals or cd/dvds with each vehicle. Electronic access to manufacturer website in lieu of cd/dvds is acceptable.

Cab interior

2.00 Cab Configuration: A vinyl seat with an ergonomically contoured armrest and a control interlock system must be equipped in the cab. Hand and foot throttle controls must be supplied and installed.

2.10 Self Contained Breathing Apparatus (SCBA): This vehicle must be SCBA compatible making it operable when deployed in high risk situations where hazardous materials or weapons of mass destruction (WMD) may be encountered.

2.20 Cab Climate Control: Air conditioner/heater must be supplied and installed.

Cab Exterior

3.00 Cab Construction: The vehicle cab must be fully enclosed and must incorporate a Roll Over Protection System (ROPS). The entire cab must be armored to meet or exceed National Institute of Justice (NIJ) Level IV specifications.

3.01 Vehicle Glass: All cab related glass must be ballistic resistant and must meet or exceed NIJ Level IV specifications.

3.10 Surveillance system: Two (2) infrared cameras, five (5)-Low Light Cameras, 8-Channel DVR and WIFI transmit capability must be supplied and installed.

3.20 The Hydraulic Breaching Ram: A Hydraulic Breaching Device with combined six thousand five hundred pound per square inch (6,500 psi) at the front of the ram. The ram must be fitted with four low-light video cameras attached to its face that allows for a 360 degree field of view and one infrared camera for frontal view. Tactical Non-Lethal Chemical Agent Delivery System must be supplied and installed.

3.30 Grapple Claw: A Grappling Claw, designed for debris removal and site preparation must be provided. Claw must have a minimum lifting capacity of four thousand pounds (4,000lbs).

3.40 Vehicle Extraction Tool: Vendor must supply a Vehicle Extraction Tool (VET) capable of moving or immobilizing a vehicle in a tactical situation.

3.50 Armored Personnel Platform: An armored personnel platform capable of second story entry/rescue operations must be provided. The platform must also have video monitoring, self-contained lighting, and shooting ports.

3.60 Specialized Vehicle Transporter: A custom, twenty five foot (25') twelve (12) ton trailer with a goose neck hitch, a flat deck, five foot (5') long dove tail, and electric brakes that is specially designed to transport the Multi-Terrain loader must be provided.

END OF WRITTEN SPECIFICATIONS

Item # 2.00 **EJ Ward 3 Canceiver Installation:** Vendor must supply and install an E.J. Ward Vehicle Fuel Information Transmitter system (Canceiver Type) part #KIT-CVR-J2284LDH, or equal, with antenna part #ANT-FLAT-225, or equal. E.J.Ward vehicle Fuel Information Transmitter system installed in vehicle must have version three (3) or the version currently in use by the NYPD. The module must be installed and secured behind or under the instrument panel in a professional manner. It is incumbent upon the vendor to acquire an E.J. Ward Canceiver

installation manual and follow the recommendations and procedures regarding the proper installation of all components of this system. System must be installed with correct software version prior to delivery. Installation is subject to NYPD, Fleet Services Division, Technical Services Office approval.

Item # 3.00 **AssetWorks Radio Frequency Vehicle ID (RFID) Box:** Vendor must supply and install an AssetWorks RFID Box model #RID-FGS-01-LDK, or equal. The RFID Box installed must be fully compatible with the AssetWorks FuelFocus fuel management system. The module must be installed as per manufacturer guidelines. Installation of RFID box is subject to NYPD, Fleet Services Division, Technical Services Office approval.

Item # 4.00 **Diagnostic Scan Tool:** Vendor must supply the latest version of manufacturer's diagnostic scan tool. Scan tool must have capability to diagnose, communicate, and reprogram all factory/OEM on board modules. Vendor must supply hardware, software and access to the latest versions of said diagnostic software.

END OF OPTIONAL ITEMS

PLEASE RETAIN ON FILE

THE NEW YORK CITY PURCHASE CONTRACT
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
DIVISION OF MUNICIPAL SUPPLY SERVICES
MUNICIPAL BUILDING, NEW YORK, N.Y. 10007

PART I
GENERAL DEFINITIONS

The definitions set forth in Chapter 1, Section 1-01 of the Procurement Policy Board Rules shall apply to this Contract.

1. "Agency" is the particular department, board, bureau, office or other City subdivision organizing and supervising procurement; i.e., solely the Department of Citywide Administrative Services.

2. "Agency Chief Contracting Officer" means the position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate agency staff in conjunction with the City Chief Procurement Officer; i.e., the Agency Chief Contracting Officer of the Department of Citywide Administrative Services or a delegated representative.

3. "Agency Head" is a term referring to heads of city, county, borough, or other office, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the City treasury; i.e., the Agency Head of the Department of Citywide Administrative Services or a delegated representative.

4. "Blanket Order" is a purchase order issued to a vendor by an agency with a "not to exceed" amount and without specific quantities and delivery dates. This enables the agency to make purchases at different times and in varying amounts from a requirement contract by means of shipping instructions, the total expenditures not to exceed the amount of the blanket order.

5. "City" is the City of New York.

6. "City Chief Procurement Officer" means the position delegated authority by the Mayor to coordinate and oversee the procurement activity of mayoral agency staff, including the Agency Chief Contracting Officers (ACCO) and any offices which have oversight responsibility for the procurement of construction, computer and computer services.

7. "Commissioner" means the Commissioner of the Department of Citywide Administrative Services of the City of New York or any Deputy or Assistant Commissioner who has been delegated authority.

8. "Comptroller" means the Comptroller of the City.

9. "Contract" includes the bid book, the invitation for bids, these general definitions, the instructions to bidders, the general conditions, the special conditions, the affirmations, the bid and schedule of quantities and prices, the drawings and specifications, the Budget Director's Certificate when applicable, any special instructions to bidders, together with all addenda, change orders or modifications, all provisions required by law to be inserted in this Contract whether actually inserted or not, purchase order or notice of award, performance and payment bonds when required, and notice to proceed with work, when applicable.

10. "Date of Contract Award" shall be the date of Notice of Award, if issued, or otherwise the perforated date of Purchase Order.

11. "Department" means the Department of Citywide Administrative Services, City of New York.

12. "Division" means the Division of Municipal Supply Services, Department of Citywide Administrative Services.

13. "Goods" are the subject matter of this contract and include but are not limited to supplies, articles, commodities, equipment, materials, merchandise or wares, together with any labor, services or other work necessary for performance of the Contract.

14. "Law" or "Laws" shall include but not be limited to the Constitution of the State of New York, the New York City Charter, the New York City Administrative Code, a statute of the United States or of the State of New York, a local law of the City of New York, and any ordinance, rule or regulation having the force of law.

15. "Schedule" is the contract schedule of quantities, prices, specifications and descriptions contained in the Bid document.

16. "Seller," "Supplier," "Contractor," "Vendor" or "Bidder" is the person, firm or corporation awarded this Contract and obligated to furnish and deliver the Goods to the City in accordance with all the terms and conditions of the Contract.

17. "Time of Performance" means the specific time or times indicated in the Contract at which or within which delivery or other performance is to be completed.

PART II
STANDARD INSTRUCTIONS TO BIDDERS

THESE INSTRUCTIONS ARE STANDARD FOR ALL CONTRACTS FOR GOODS ISSUED BY THE DIVISION OF MUNICIPAL SUPPLY SERVICES. THE DIVISION OF MUNICIPAL SUPPLY SERVICES MAY DELETE, SUPERSEDE OR MODIFY ANY OF THESE STANDARD INSTRUCTIONS FOR A PARTICULAR CONTRACT BY INDICATING SUCH CHANGE IN THE BID BOOK, THE SPECIAL INSTRUCTIONS TO BIDDERS OR IN THE SCHEDULE.

1. CONTRACT - INTERPRETATION AND EXAMINATION

1.1 Request for Interpretation or Correction. Prospective bidders must examine the Contract Documents carefully and before bidding must request the Agency Chief Contracting Officer in writing for an interpretation or correction of every patent ambiguity, inconsistency or error therein which should have been discovered by a reasonably prudent bidder. Such interpretation or correction, as well as any additional contract provisions the Agency Chief Contracting Officer may decide to include, will be issued in writing by the Agency Chief Contracting Officer as an addendum to the contract, which will be sent by mail or delivered to, and acknowledged by, each person recorded as having received a copy of the contract documents from the Contract Clerk, and which will also be posted at the place where the contract documents are available for the inspection of prospective bidders. Upon such mailing or delivery and posting, such addendum shall become a part of the contract documents, and binding on all bidders, whether or not actual notice of such addendum is shown.

Only the written interpretation or correction given by the Agency Chief Contracting Officer is binding. Bidders are warned that no other Officer, agent or employee of the City is authorized to give information concerning, or to explain or interpret, the contract.

1.2 The documents, samples, and any other elements comprising this Contract are intended mutually to explain and complement one another. Any factual conflicts between or among the separate elements, any errors or omissions, or any doubt as to the requirements of this Contract shall be resolved or corrected in writing by the Agency Chief Contracting Officer. The Seller shall have no power unilaterally to make any such resolutions or corrections. Such resolutions or corrections by the Agency Chief Contracting Officer shall be final and conclusive upon the Seller. If Seller fails to bring any conflict, error, or omission to the attention of the Agency Chief Contracting Officer prior to submission of its bid, Seller shall be deemed to have contracted to produce the goods and perform the work in the most expensive manner using only the best material and workmanship.

1.3 Priority of Documents in the Bid. Should there be conflicting provisions in the documents of this contract the order of precedence shall be: (1) Schedule of Quantities, (2) Specifications, (3) Drawings, (4) Special Instructions, (5) General Conditions and (6) Standard Instructions.

When there is a variation in the description of an item, between the specification, sample, or catalog or model number, the description contained in the specification section of these documents will prevail. If description and drawings conflict, the drawings shall prevail.

Drawings or samples, even though approved subsequent to the award, shall not be deemed a waiver or modification of the specifications unless this Contract has been modified as provided in Section 9 of the General Conditions (Part III).

2. BIDS

2.1 Form of Bid. All bids shall be submitted on forms furnished by the City. Such forms, and envelopes in which to submit bids, may be obtained at the place designated in the advertisement. No alteration, erasure or addition is to be made to the typewritten or printed matter of the bid documents. Such changes shall be of no force and effect and may be grounds for rejection of the bid.

2.2 Submission of Bids. A bid will not be accepted if it is received in the Division of Municipal Supply Services after the time scheduled for the opening. This applies to bids sent by mail as well as to those delivered by hand. If a vendor chooses to use special delivery service it will be the responsibility of the vendor to ensure that the bid is delivered directly to the Division of Municipal Supply Services' Bid Room. Bids must indicate on the outside envelope the bid number and bid opening date; otherwise the bid will not be accepted and will not be opened.

2.3 Prices, Extensions and Discounts.

(a) The Bidder shall insert against each item which it proposes to furnish and deliver the price per stated unit and the extensions. In the event of a discrepancy between the unit price and the extension, the unit price will govern. If discount bids are requested, and there is an error in the extension of the total, the discount offered will govern.

(b) Cash discounts will not be considered in determining the low bidder.

2.4 Sales, Excise and Federal Transportation Taxes. Unless this Contract indicates otherwise, the City is exempt from the payment of any sales, excise or federal transportation taxes. The price bid, whether computed as a net unit price or based upon a trade discount from catalog list prices, must be exclusive of taxes and will be so

construed. The purchase order may be accepted in lieu of a Sales Tax Exemption Certificate.

2.5 Delivery Charges. All prices bid must be on the basis of F.O.B. delivery point, unloaded, inside and assembled unless otherwise indicated in this Contract.

2.6 Containers and Reels. All containers and reels shall become the property of the City unless otherwise specified. When containers or reels are returnable, they will be returned at the Seller's expense; otherwise they will be paid for by the City at the rate agreed upon in this Contract.

2.7 Manufacturers' Warranties and Guaranties. Unless otherwise indicated in this Contract, the Seller shall issue or obtain all manufacturers' warranties and guaranties of all equipment and materials required by this Contract in the name of the City of New York and shall deliver same to the City.

2.8 Variable Quantities and Delivery Points. The quantities and delivery points set forth in this Contract will be subject to one of the following variations which will be indicated in the Bid Book.

(a) Type "A" Contract. The Agency Chief Contracting Officer during the term of this Contract may increase or decrease the quantity of any item or class; however, any contract increases which cumulatively exceed the greater of ten percent (10%) of the total cost of this contract or $100,000 must be approved in writing by the City Chief Procurement Officer. Delivery points are limited to those indicated in the Bid Book unless modified by mutual agreement of the parties.

(b) Type "B" Contract. The Agency Chief Contracting Officer reserves the right, during the term of this Contract, to order such quantities for such delivery points and under such conditions as may be indicated in the Bid Book. Unless otherwise indicated in the Bid Book, the City may order up to 100% more of the base quantity set forth in the bid.

(c) Type "C" Contract: (Requirement Contract). A requirement contract is a contract for an indefinite amount of goods to be furnished at specified times, or as ordered, that establishes unit prices, usually of a fixed price type. Generally, an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the City is obligated to order and may also provide for a maximum quantity provision that limits the City's obligation to order. The Agency Chief Contracting Officer may, with the consent of Seller, extend the term of this Contract up to an additional 120 days.

2.9 Proprietary Information/Trade Secrets.

The bidder shall identify those portions of their bid that they deem to be confidential, proprietary information or trade secrets, and provide justification why such materials shall not be disclosed by the City. All materials the bidder desires to remain confidential shall be clearly indicated by stamping the pages on which such information appears, at the top and bottom thereof with the word "Confidential." Such materials stamped "Confidential" must be easily separable from the non-confidential sections of the bid.

All such materials so indicated shall be reviewed by the Agency and any decision not to honor a request for confidentiality shall be communicated in writing to the bidder. For those bids which are unsuccessful, all such confidential materials shall be returned to the bidder. Prices, makes and model or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available after bid opening regardless of any designation of confidentiality made by the bidder.

3. BIDDER QUALIFICATIONS

3.1 Evidence of Ability.

(a) Before or after making an award of contract, the City reserves the right to inspect the premises where Goods are manufactured, prepared or stored. When the source of production is outside the City of New York, the Agency Chief Contracting Officer may demand the submission of satisfactory evidence that the Goods proposed for delivery are in every respect what they are represented to be.

(b) The Bidder shall, upon request, submit evidence that will prove to the satisfaction of the Agency Chief Contracting Officer that it is qualified and able to furnish the Goods on which it bids and deliver them in the manner and time specified. It shall also furnish evidence that it has secured the necessary licenses, permits or certificates, required by any legislative or regulatory body having jurisdiction, to carry on the business of furnishing the Goods on which the bid was submitted.

(c) If the evidence required in paragraphs (a) and (b) of this sub-section is not furnished, or if, upon examination of such evidence or other inspection of the plant or premises, it is found that the Bidder does not comply with the requirements set forth in this Contract, the Agency Chief Contracting Officer shall have the right to reject the bid in whole or in part. Should the non-compliance be discovered after the award is made, the Agency Chief Contracting Officer shall have the right to cancel and terminate this Contract and/or declare the Seller in default, in addition to any other remedies provided

by contract or at law or equity.

(d) In addition to any other requirement of this Contract, the Agency Chief Contracting Officer may request the Bidder to submit a sworn statement or submit to an oral examination setting forth such information as may be deemed necessary by the Agency Chief Contracting Officer to determine the Bidder's ability and responsibility to perform the work and supply the Goods in accordance with the Contract.

3.2 Financial Qualifications.

(a) The Agency may require any bidder or prospective bidder to furnish all books of account, records, vouchers, statements or other information concerning the bidder's financial status for examination as may be required by the agency to ascertain bidder's responsibility and capability to perform the contract.

(b) If the bidder fails or refuses to supply any of the documents or information set forth in paragraph (a) hereof or fails to comply with any of the requirements thereof, the Agency Chief Contracting Officer may reject the bid.

3.3 Examination before Award. The City reserves the right, before making an award, to conduct examinations to determine whether or not the Goods proposed to be furnished meet the requirements set forth in the Contract. If any such examination shows that the Contract requirements are not complied with, or that Goods proposed to be furnished do not meet the requirements called for, the Agency Chief Contracting Officer may reject such bid, and may award the Contract to the lowest responsible Bidder. It is distinctly understood, however, that nothing in the foregoing shall mean or imply that it is obligatory upon the City to make any examinations before awarding a Contract. It is further understood that the making or waiving of any such examination in no way relieves the Seller from fulfilling all requirements and conditions of this Contract.

4. SPECIFICATIONS AND SAMPLES

4.1 Specifications and "Or Equal" Bidding. Written specifications may be used to describe the Goods required. The Bidder must comply with all material requirements of the specifications. When the name of a manufacturer, a brand name, manufacturer's catalog number, or "as per sample" is used as the bid standard along with salient characteristics in describing an item followed by "or equal," this description is used to indicate quality, performance and other essential characteristics of the Goods required. If bidding on make, model, brand or sample specified, the words "or equal" should be stricken out by the Bidder. All bidders are presumed to be bidding on the make, model, brand or sample specified unless they submit, either on the line provided therefor, or in a letter attached to the bid, all of the following: manufacturer's name, catalog number and any other information necessary to prove that an intended substitution of Goods is equal in

all essential respects to the bid standard. The Bidder must prove to the satisfaction of the Agency Chief Contracting Officer that its designated substitute is equal to the bid standard and salient characteristics in all material respects; otherwise, its bid will be rejected. The City reserves the right to consider material, characteristics which it, in its sole discretion, deems intrinsic to the nature of the product even though such characteristic has not been listed as salient.

Whenever Goods are indicated in the specifications or schedules by a catalog description, or by a trademark or trade name or by the name of any particular patentee, manufacturer, or dealer, such description shall mean the Goods indicated or any equal thereto in all essential respects as shall be determined by the City, except when the Goods are purchased according to an Acceptable Brands List or are indicated as brand specific only, no equal will be accepted.

4.2 Unused Goods. Unless specifically noted in this Contract, all Goods must be new and unused, however, vendors are encouraged to use secondary or recycled materials in the manufacture of products to the maximum extent practicable without jeopardizing the performance or intended end use of the product unless such use is precluded due to health and welfare or safety requirements or product specifications contained herein.

4.3 Submission of Samples, Pilot Models and Drawings. Samples and descriptive literature shall not be submitted unless expressly requested elsewhere in the contract or contract documents. Any unsolicited samples or descriptive literature which are submitted shall not be examined or tested and shall not be deemed to vary any of the provisions of this contract. When samples, pilot models or drawings are requested from the Bidder or required by this Contract, they shall be delivered by the Bidder, properly identified, within fifteen (15) calendar days of the request unless this Contract indicates a different time. If the Bidder fails to deliver the same in a timely manner, the Agency Chief Contracting Officer shall have the right to deem the bid non-responsive or to cancel and terminate the contract.

Samples, drawings and pilot models requested by the City shall be submitted to the 18th floor, Municipal Building, New York, New York 10007, unless some other place is indicated. Samples, drawings and pilot models shall be submitted free of charge.

(a) Samples and Pilot Models. If in the judgment of the City the sample or pilot model submitted is not in accordance with the requirements prescribed in the bid documents, the City may reject the bid. If an award has been made, the City may cancel the contract at the expense of the Seller.
A sample or pilot model may be held by the City 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 or pilot model shall be removed by the Bidder at the Bidder's expense within thirty (30) days of written request by the City. If Bidder fails to remove them within the thirty (30) day

period, then the sample or pilot model shall become the sole property of the City and the City shall have the right to dispose of them at no cost or liability to the City and the Bidder shall have no right of action for damages or any right to an accounting therefor. The City will not be responsible for any samples or pilot models which are destroyed or damaged by examination.

(b) Drawings and Plans. Approval by the Agency Chief Contracting Officer of drawings and/or plans of details for any Goods or installation will not relieve the Seller from its responsibility for furnishing the Goods or installation of proper dimensions, size, quantity and quality to efficiently perform the work and carry out the requirements and intent of the layout of descriptive drawings forming a part of the bid documents. Such approval shall not relieve the Seller from responsibility for design or other errors of any sort in the drawings or plans.

Drawings, plans and copies thereof prepared by Seller specifically in the performance of this Contract shall be submitted to the City prior to payment and shall become the property of the City for use by the City in any manner whatsoever, without further compensation, including as specifications for future bids and contracts. Unless otherwise provided in this Contract, Seller also retains a proprietary interest in any such drawings and plans.

4.4 Acceptable Brands List. When Goods are purchased under an "Acceptable Brands List," the Agency Chief Contracting Officer reserves the right, before or after the award, to call for samples and s/he may remove any brand from the "Acceptable Brands List" which has been found to have changed in quality since the date on which the list was compiled. If such change is discovered prior to this award, the bid may be rejected; if the change takes place or is discovered after this Contract has been awarded, this Contract may be considered breached by the Seller.

5. AWARD

5.1 Item and Class Awards. Awards may be made by item or class in the interest of the City as determined by the Agency Chief Contracting Officer. When class bids are indicated in the Contract, the Bidder must bid on each item in the class. A Bidder desiring to bid "no charge" on an item in a class must so indicate; otherwise the bid for the class will be construed as incomplete and may be rejected. The Agency Chief Contracting Officer, nevertheless, reserves the right to delete an item(s) from a class and award the remaining items on a class basis, in the interest of the City. When a class bid shows evidence of unbalanced bid prices, such bid may be rejected.

5.2 Mistake in Bids:

(a) Mistakes Discovered Before Bid Opening

A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in Section 5.8, below.

(b) Mistakes Discovered Before Award

1. In accordance with Chapter Three, Section 3-02(m) of the Procurement Policy Board Rules, if a bidder alleges a mistake in bid after bid opening and before award, the bid may be corrected or withdrawn upon written approval of the Agency Chief Contracting Officer if the following conditions are met:

(i) Minor Informalities. Minor informalities in bids are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible. The Contracting Officer may waive such informalities or allow the bidder to correct them depending on which is in the best interest of the City.

(ii) Mistakes Where Intended Correct Bid is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn.

(iii) Mistakes Where Intended Correct Bid is Not Evident. A bidder may be permitted to withdraw a low bid if:

(a) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

(b) the bidder submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.

(c) Mistakes Discovered after Award. Mistakes shall not be corrected after award of the contract except where the City Chief Procurement Officer subject to the approval of Corporation Counsel makes a written determination that it would be unconscionable not to allow the mistake to be corrected.

5.3 Rejection of Bids:

(a) Rejection of Individual Bids. The Agency may reject a bid if:

1. The bidder fails to furnish any of the information required pursuant to Division of Labor Services or Vendex requirements hereof; or if

2. The bidder is determined to be not responsible pursuant to the Procurement Policy Board Rules; or if

3. The bid is determined to be non-responsive pursuant to the Procurement Policy Board Rules; or if

4. The bid, in the opinion of the Agency Chief Contracting Officer, contains unbalanced bid prices and is thus non-responsive.

(b) Rejection of All Bids. The Agency, upon written approval by the Agency Chief Contracting Officer, may reject all bids and may elect to resolicit bids if in its sole opinion it shall deem it in the best interest of the City so to do.

(c) Rejection of All Bids and Negotiation With All Responsible Bidders. The Agency Head may determine that it is appropriate to cancel the Invitation for Bids after bid opening and before award and to complete the acquisition by negotiation pursuant to applicable PPB rules.

5.4 "Foreign" Goods. If a Bidder proposes to furnish any item which is not produced, fabricated or processed in the United States or its territorial possessions, it must write the word "foreign" and the country of origin of such item in the Bid Book, and failure to do such may be a ground for rejection of such Goods. Unless the designated standard is of foreign origin, failure on the part of the Bidder to designate an item as foreign will be construed to indicate that the item offered is domestic.

5.5 Low Tie Bids.

(a) When two or more low responsive bids from responsible bidders are identical in price, meeting all the requirements and criteria set forth in the Invitation For Bids, the Agency Chief Contracting Officer will break the tie in the following manner and order of priority:

(i) Award to a certified New York City small minority or woman-owned business entity bidder;

(ii) Award to a New York City bidder;

(iii) Award to a certified New York State small, minority or woman-owned business bidder;

(iv) Award to a New York State bidder.

(b) If two or more bidders still remain equally eligible after application of paragraph (a) above, award shall be made by a drawing by lot limited to those bidders. The bidders involved shall be invited to attend the drawing. A witness shall be present to verify the drawing and shall certify the results on the bid tabulation sheet.

5.6 Alternate Products. A Bidder may not bid multiple products for one bid item. If a Bidder offers more than one, only the lowest price offering will be considered. If the price offerings are identical, only the first item listed will be considered.

5.7 Waiving Informalities. The Agency Chief Contracting Officer reserves the right to waive any informality, technicalities, irregularities and omissions in a bid when the Agency Chief Contracting Officer deems such waiver to be in the interest of the City.

5.8 Pre-Opening Modification or Withdrawal of Bids. Bids may be modified or withdrawn by written notice received in the office designated in the contract for receipt of bids, before the time and date set for the bid opening. A telegraphic, mailgram or facsimile withdrawal shall be effective provided it was received in the manner set forth in Section 3-02(j) of the Procurement Policy Board Rules. If a bid is withdrawn in accordance with this section, the bid security, if any, shall be returned to the bidder.

5.9 Late Bids, Late Withdrawals and Late Modifications. Any bid received at the place designated in the solicitation after the time and date set for receipt of bids is late and shall not be considered. Any request for withdrawal or modification received at the place designated in the solicitation after the time and date set for receipt of bids is late and shall not be considered. The exception to this provision is that a late modification of a successful bid that makes the bid terms more favorable to the City shall be considered at any time it is received.

5.10 Bid Evaluation and Award. In accordance with the New York City Charter, the Procurement Policy Board Rules and the terms and conditions contained herein, this contract shall be awarded, if at all, to the responsible bidder whose bid meets the requirements and evaluation criteria set forth in the Invitation for Bids, and whose bid price is either the most favorable bid price or, if the Invitation For Bids so states, the most favorable evaluated bid price or award to other than the lowest responsible bidder pursuant to Section 3-02(o) of the PPB Rules. A bid may not be evaluated for any requirement or criterion that is not disclosed in the Invitation For Bids.

Restrictions. No negotiations with any bidder shall be allowed to take place except

under the circumstances and in the manner set forth in the Procurement Policy Board Rules. Nothing in the rule shall be deemed to permit a contract award to a bidder submitting a higher quality item than that designated in the Invitation For Bids if that bid is not also the most favorable bid.

5.11 Right to Appeal Determinations of Non-Responsiveness or Non-Responsibility and Right to Protest Solicitations and Award. The bidder has the right to appeal a determination of non-responsiveness or non-responsibility and has the right to protest a solicitation and award. For further information concerning these rights, the bidder is directed to Chapter 2, Sections 2-07, 2-08 and 2-10 of the Procurement Policy Board Rules.

PART III
GENERAL CONDITIONS

1. PERFORMANCE

The Seller shall furnish and deliver the Goods in the manner and to the destination and within the delivery time herein specified. The Seller shall accept as full compensation therefor the sums set forth opposite the respective Goods called for in the Bid Book, which sums are amounts at which the Contract was awarded to the Seller at the letting thereof.

2. TIME OF PERFORMANCE

2.1 Extending Time of Performance. The Time of Performance may be extended in either of the following ways:

(a) If the performance of the Seller is delayed by an act or omission of the City, the Seller shall be allowed a reasonable extension in the Time of Performance, and no claim for the delay or damages resulting therefrom shall be made by or allowed to the Seller.

(b) If the performance of the Seller is delayed for any other cause beyond the control of either party, an extension of time may be granted by the Agency Chief Contracting Officer solely at his/her discretion. The Seller shall not be responsible for delay resulting from its failure to deliver if neither the fault nor negligence of the Seller, its officers, employees or agents contributed to such delay and the delay is due directly to acts of God, wars, acts of public enemies or other similar cause beyond the control of the Seller, or to strikes, fires or floods, including strikes, fires or floods affecting its subcontractors or materialmen where no alternate source of supply is available to the Seller. Should such excusable delay inconvenience the City by creating an emergency thus necessitating the purchase of the Goods involved elsewhere, which necessity shall be conclusively determined by the Agency Chief Contracting

Officer, the Agency Chief Contracting Officer shall have the right to purchase such Goods elsewhere without liability to the Seller. To the extent such purchases are made, the City shall be relieved of the obligation to purchase the Goods from the Seller and the Seller shall be relieved of the obligation to furnish such Goods to the City.

2.2 Application. Upon written application by the contractor, the Agency Chief Contracting Officer may grant an extension of time for performance of the contract. Said application must state, at a minimum, in detail, each cause for delay, the date the cause of the alleged delay occurred, and the total number of delay in days attributable to such cause. The ruling of the Agency Chief Contracting Officer shall be final and binding as to the allowance of an extension and the number of days allowed.

2.3 Non-Waiver. The delivery and acceptance of any Goods after the Time of Performance shall not be deemed a waiver of the right of the Agency Chief Contracting Officer to terminate this Contract or to require the delivery of any undelivered Goods in accordance with this Contract or any other remedy whether contractual or otherwise stated in law or in equity.

3. TERMS AND CONDITIONS OF PERFORMANCE

3.1 Competent Workers. The Seller shall employ only competent workers in the performance of this Contract. The Seller's performance of this Contract, or of any other work, shall not cause or result in a suspension of, delay in, or strike upon the work to be performed hereunder by any of the trades working hereon or on any other contracts with the City. If, in the opinion of the Agency Chief Contracting Officer, the Seller violates such obligation, the Agency Chief Contracting Officer, in his/her sole discretion and at his/her option, may either demand that any incompetent workers be replaced and not again employed in the performance of this Contract, which demand shall be complied with by the Seller, or may, upon notification to the Seller, consider the Seller in default.

3.2 Unsatisfactory Performance. If, in the opinion of the Agency Chief Contracting Officer, either the Seller's performance is unsatisfactory or is not being carried out with due diligence, the Seller shall immediately remedy such performance. Failure of the Seller to so conform will be deemed a material breach of this Contract.

3.3 Substitution of Goods. In the event a specified manufacturer's commodity listed in the Seller's bid document becomes unavailable or cannot be supplied to the City by the Seller for any reason (except as provided for in 2.1(b) above) a product deemed by the Agency Chief Contracting Officer to be the equal of the specified commodity must be substituted by the Seller at no additional cost or expense to the City.

3.4 Purchase Order Binding When Mailed. Unless terminated or cancelled by the Agency Chief Contracting Officer pursuant to the authority vested in him/her, purchase orders

shall be effective and binding upon the Seller when placed in the mail prior to the termination of the contract period, addressed to the Seller at the address shown on the award.

3.5 Termination or Suspension of Contract. Where the Agency Chief Contracting Officer deems it to be in the interest of the City, the Agency Chief Contracting Officer may terminate or suspend the performance of this Contract in whole or in part, for the convenience of the City.

4. DELIVERY

4.1 Notice to Seller to Deliver. No delivery shall become due or be acceptable without a written order or shipping instruction by the City, unless otherwise provided in this Contract. Such order or shipping instruction will contain the quantity, time of delivery and other pertinent data. However, on items urgently required, the Seller may be given telephone notice, to be confirmed by an order in writing. If an urgent delivery is required within a shorter period than the delivery time specified in this Contract and if the Seller is unable to comply therewith, the Agency Chief Contracting Officer reserves the right to obtain such delivery from others without penalty or prejudice to the City or to the Seller.

4.2 Delivery Time. Unless otherwise stipulated in this Contract, delivery shall be made between 9 a.m. and 4 p.m., Monday to Friday inclusive. However, on Goods required for daily consumption, or where the delivery is an emergency, a replacement, or is overdue, the convenience of the Agency and the City's inspector shall govern. If, in calculating the number of days from the order date, the delivery date falls on a Saturday, Sunday or holiday, delivery shall be made not later than the next succeeding business day.

4.3 Seller's Advice of Manufacture or Delivery. The Seller shall notify the Agency at least twenty-four (24) hours in advance of delivery.

5. INSPECTION

5.1 Right to Inspect. The City shall have the right to inspect the Goods at the point or points of delivery. The City reserves the right to make additional inspection(s) at the plant of the manufacturer, packer or Seller or its supplier(s). The exercise by the City of the right of inspection shall in no way be deemed a waiver by the City of any right later to reject, revoke acceptance, or recover damages for Goods accepted which are not in fact free from patent or latent defects, or of the Seller's obligation to deliver conforming Goods.

5.2 Removal of Non-Conforming Goods. The Seller shall remove any non-conforming Goods or part thereof at Seller's own expense within a reasonable time not to exceed

thirty (30) days after notification of any rejection or revocation of acceptance. The City shall have the right to dispose of rejected Goods left longer than thirty (30) days at no cost or liability to the City and the Seller shall have no right of action for damages or any right to an accounting therefor.

5.3 No Obligation to Minimize Seller's Damage. The City shall be under no obligation to sell or resell any rejected Goods, whether perishable or non-perishable or whether or not such Goods are threatened to or do depreciate in value, in order to minimize the Seller's damages.

5.4 Costs of Additional Inspections. The Seller shall bear the reasonable cost of all further inspections required by reason of any rejection or revocation of acceptance.

5.5 Risk of Loss. Title and risk of loss shall not pass from the Seller to the City until the Goods have been received by the ordering Agency and accepted by the City. Mere acknowledgment by Agency personnel of the delivery or receipt of goods (as in a signed bill of lading) shall not be deemed or construed as acceptance of the Goods received. The Seller bears the risk of loss of all Goods until inspected and accepted; if acceptance is revoked the Seller bears the risk of loss thereafter.

5.6 Right to Cure. Any right of the Seller to "cure," as defined in the New York Uniform Commercial Code, shall be employed by the Seller within a reasonable time. Such reasonable time as determined by the Agency Chief Contracting Officer shall be conclusive on the Seller.

6. NON-DELIVERY AND REJECTIONS

6.1 Rejected Goods. The City may withhold or revoke acceptance of or reject any Goods which are found, upon examination, not to conform to the terms of this Contract. With respect to food and drugs, no written notice of rejection need be given, whereas in all other instances such notice will be in writing.

6.2 Labels. All Goods which are customarily labeled or identified must have securely affixed thereto the original unmutilated label or marking of the manufacturer. Failure to comply with this requirement may be considered sufficient cause for rejection.

When a label or marking is required by any regulatory agency, it must be affixed to all Goods delivered under this Contract.

6.3 Health Regulations. Any food, drug or other Goods which are found to be unwholesome or otherwise unfit for human consumption or use, shall not be removed by the Seller until examined by the appropriate public authorities. If condemned, such Goods shall be disposed of by the Seller in accordance with the rules and regulations of the appropriate public authorities.

Should the Seller fail to make disposal within twenty-four (24) hours after appropriate orders to do so, the City may make such disposal and charge the Seller for the cost involved.

6.4 Liquidated Damages - Delayed or Defaulted Deliveries.

(a) It is not the intention of the City to assess liquidated damages unless they are specifically provided for in this Contract.

(b) Where the "Cover" provision of subsection 6.5 hereinbelow is invoked, the liquidated damages will be assessed as provided therein and will be calculated from the original delivery due date to the date delivery is due from the new Seller.

6.5 Cover (Buying Against Contract).

(a) If the Seller fails to perform in accordance with this Contract, the Agency Chief Contracting Officer may obtain such Goods or any part thereof from other sources with or without public letting, as s/he may deem advisable, and, with no obligation to Seller to mitigate damages. If the price paid in obtaining the goods from other sources is greater than this Contract's price, the difference, plus the reletting cost and the liquidated damages, if any, will be charged against the Seller. If such price is less, the Seller shall have no claim to the difference, but the reletting cost and the liquidated damages will become charges against the Seller.

(b) The reletting cost is hereby determined to be two hundred and fifty ($250) dollars.

6.6 Collection of Charges. All charges becoming due under the provisions of subsection 6.4 hereinabove "Liquidated Damages - Delayed or Defaulted Deliveries" and subsection 6.5 hereinabove "Cover" shall be deducted from current obligations that are due or may become due to the Seller. In the event that collection is not made as provided above, the Seller shall pay to the City on demand the amount of such charges.

7. PAYMENTS

7.1 Weights and Measures. All weights and measures called for shall be net and shall be determined at the point of delivery unless the Bid Book indicates otherwise.

7.2 Payments

(a) It is the policy of the City to process contract payments efficiently and

expeditiously to assure payment in a timely manner to firms and organizations who do business with the City.

(b) Payments will be made for the net number of conforming units accepted at the price bid per unit. Proper invoices, when submitted, will be payable within thirty (30) days after either receipt of invoice(s) or acceptance of the Goods, whichever date is later. When periodic deliveries are made during the month, such invoices will be payable within thirty (30) days after either the end of the month or the receipt of invoices or acceptance of the Goods, whichever date is latest.

(c) If public necessity requires the use of any Goods which are subsequently found not to comply with the specification requirements, and if no definite deductions are prescribed, the City will make such deductions as it shall determine to be reasonable.

(d) In any case where a question of non-performance of a contract arises, payment may be withheld in whole or in part at the discretion of the Agency Chief Contracting Officer. Should the amount withheld be finally paid, a cash discount for prompt payment originally offered may be taken by the City as if no delay in payment had occurred.

(e) Any claim by or on behalf of the City against the Seller may be deducted by the City from any money due the Seller. If no such deduction or only a partial deduction is made in such fashion the Seller shall pay to the City the amount of such claim or the portion of the claim still outstanding, on demand.

7.3 Prompt Payment

The Prompt Payment provisions set forth in Chapter 4, Section 4-06 of the Procurement Policy Board Rules in effect at the time of this solicitation will be applicable to payments made by New York City agencies only under this contract. The provisions require the payment to contractors of interest on payments made after the required payment date except as set forth in subdivisions c(3) and d(3), (4), (5) and (6) of Section 4-06 of the Rules.

The contractor must submit a proper invoice to receive payment, except where the contract provides that the contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment.

Determinations of interest due will be made in accordance with the provisions of Section 4-06 of the Procurement Policy Board Rules and General Municipal Law §3-a.

Pursuant to the Prompt Payment provisions of the Procurement Policy Board Rules, the

Division may designate this contract and the items specified herein as subject to a longer acceptance period to afford a practicable opportunity for testing, installation and inspection. For purposes of vendor payment in such case, the actual date of acceptance by the Division's Bureau of Quality Assurance shall substitute for the Invoice Received/Acceptance Date (IRA Date).

8. FINAL PAYMENT-ESTOPPEL

8.1 Acceptance by Seller is Release. Except for the Seller's right to claim any sums retained by the City under the maintenance or guarantee provisions of this Contract, the acceptance by the Seller, or any person claiming under Seller, of the final payment, whether such payment be made pursuant to any order or judgment of any Court or otherwise, shall constitute and operate as a release to the City from all claims of and liability to the Seller, its representatives or assigns for anything theretofore done or furnished for or relating to or arising out of this Contract and the work done hereunder, and for any prior act, omission, neglect or default on the part of the City or any of its officers, agents or employees.

8.2 No Interest Allowed. No interest shall be allowed on the amount certified, or audited, by the City as the final payment or on any part thereof which the City is ready and willing to pay, except as provided in subsection 7.3 herein above.

8.3 City Not Estopped. Neither the City, nor any department, or officer or employee thereof, shall be precluded or estopped by any return or certificate made or given by any officer, inspector, employee, agent or appointee of the City, or under any provision of this Contract, from showing at any time, either before or after the complete performance and acceptance of the performance of this Contract and the last payment hereunder, the actual quantity and nature of the Goods delivered by the Seller, or any person under this Contract; or from showing at any time that any certificate upon which the payment is made for any or all of the Goods is untrue or incorrect, or improperly made in any particular, or that the Goods or any part thereof delivered by the Seller do not conform to this Contract. The City shall have the right to demand and recover from the Seller such damages as it may suffer by reason of Seller's failure to comply with this Contract notwithstanding any return or certificate and payment in accordance therewith, signed by any official of the City, and such right of the City shall include recovery for any payment made for any or all of the Goods delivered and accepted.

8.4 Statement of Claim. Seller, however, shall not be barred from commencing an action for breach of contract under this provision provided that a detailed and verified statement of claim is served upon the contracting agency and Comptroller not later than forty (40) days after the mailing of such final payment. The statement shall specify the items upon which the claim will be based and any such claim shall be limited to such items. Should the provisions of this subsection conflict with those of Section 12, the provisions of Section 12 shall control.

9. MODIFICATION

9.1 Waiver. Waiver by the Department of a breach of any provision of this Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless and until the same shall be agreed to in writing by the City as required and attached to the original Contract.

9.2 Contract Changes. Changes may be made to this contract only as duly authorized by the Agency Chief Contracting Officer or his or her designee. Vendors deviating from the requirements of an original purchase order or contract without a duly approved change order document, or written contract modification or amendment, do so at their own risk. All such changes, modifications and amendments will become a part of the original contract.

Contract changes will be made only for work necessary to complete the work included in the original scope of the contract, and for non-material changes to the scope of the contract. Changes are not permitted for any material alteration in the scope of work. Contract changes may include any contract revision deemed necessary by the Contracting Officer.

The contractor shall be entitled to a price adjustment for extra work performed pursuant to a written change order. If any part of the contract work is necessarily delayed by a change order, the contractor will be entitled to an extension of time for performance. Adjustments to price shall be computed in one or more of the following ways: (i) by agreement of a fixed price; (ii) by unit prices specified in the contract; (iii) by time and material record; and/or (iv) in any other manner approved by the City Chief Procurement Officer.

Where the cost of the change order has been negotiated in the absence of established cost history, the costs are subject to verification by post audit. If the post-audit reveals that the contractor's costs for the change order work were inaccurately stated during negotiations, the agency shall recoup the amount by which the costs were inaccurately stated by proportionately reducing the price of the change order. This remedy is not exclusive and in addition to all other rights and remedies of the City.

Except in the case of requirement contracts, any contract increases which cumulatively exceed the greater of 10% or $100,000 must be approved in writing by the City Chief Procurement Officer. Any contract amendment which either amends a unit price, cancels required units, or adds a new type of unit item to contract must be approved in writing by the Agency Chief Contracting Officer.

9.3 Price Adjustments for Type "C" Requirement Contracts. Where a requirement contract

contains price adjustment provisions, contract changes shall be made in accordance with those provisions. Where no price adjustment provisions are specified, the City may seek a price decrease where there is evidence that market pricing is lower than contract pricing. If a vendor does not agree to the price adjustment, in addition to any other remedy of the City under this contract, the City may terminate the contract with ninety (90) days' written notice.

9.4 Pricing.

A. The Contractor shall whenever requested by the Commissioner during the contract, including but not limited to the time of bidding, submit cost or pricing data and formally certify that, to the best of its knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a specified date. The contractor shall be required to keep its submission of cost and pricing data current until the contract has been completed.

B. The price of any change order, or contract modification subject to the conditions of paragraph A, shall be adjusted to exclude any significant sums by which the City finds that such price was based on cost or price data furnished by the supplier which was inaccurate, incomplete, or not current as of the date agreed upon between the parties.

C. Time of Certification. The Contractor must certify that the cost or pricing data submitted are accurate, complete, and current as of a mutually determined date.

D. Refusal to Submit Data. When any Contractor refuses to submit the required data to support a price, the Contracting Officer shall not allow the price.

E. If the City finds that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(a) The Contractor was a sole source supplier or otherwise in a superior bargaining position and thus the price of the Contract would not have been modified even if accurate, complete and current cost or pricing data had been submitted;

(b) The City should have known that the cost or pricing data in issue were defective even though the contractor took no affirmative action to bring the character of the data to the attention of the City;

(c) The Contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

10. ASSIGNMENT

10.1 Written Consent Required. The Seller shall not assign, transfer, convey, sublet or in any other way dispose of this Contract or any part thereof, or assign any of the monies due or to become due under the Contract, without previous written consent of the Agency Chief Contracting Officer endorsed upon or attached to copies of this Contract. Any such assignment, transfer, conveyance or other disposition without such consent shall be void.

10.2 Contract Voidable. If the Seller shall, without the previous written consent of the Agency Chief Contracting Officer, assign, transfer, convey, sublet or otherwise dispose of this Contract to any person, firm or corporation, this Contract may be revoked and annulled and be held void at the sole discretion of the Agency Chief Contracting Officer, and the City shall thereupon be relieved and discharged from any and all liabilities and obligations to the Seller growing out of this Contract, and to its assignee or transferee; provided that nothing herein contained shall be construed to hinder, prevent, or affect an assignment by the Seller for the benefit of its creditors made pursuant to the statutes of the State of New York.

11. COMPLIANCE WITH LAWS AND INDEMNIFICATION

11.1 Compliance with Laws. The Seller shall comply with all local, State and Federal laws, and rules and regulations.

11.2 This Contract is subject to applicable provisions of Federal, State and Local Laws and Executive Orders requiring affirmative action and equal employment opportunity.

11.3 Safe Working Conditions. The Seller shall maintain safe working conditions during the performance of this Contract. Failure to maintain such conditions constitutes a breach of a material provision of this Contract.

11.4 Seller Indemnification. The Seller shall defend, indemnify and hold the City, its officers and employees harmless from any and all claims (even if the allegations of the lawsuit are without merit) or judgments for damages on account of any injuries or death to any person or damage to any property and from costs and expenses to which the City, its officers and employees may be subjected or which it may suffer or incur allegedly arising out of or in connection with any operations of the Seller and/or its subcontractors to the extent resulting from any negligent act of commission or omission, any intentional tortious act, or failure to comply with the provisions of this Contract or of the laws. Insofar as the facts or law relating to any claim would preclude the City from being completely indemnified by the Seller, the City shall be partially indemnified by the Seller to the fullest extent permitted by law.

12. PERIOD OF LIMITATION

No action shall lie or be maintained against the City upon any claim arising out of this Contract unless such action be commenced within one (1) year from acceptance of final payment, termination of contract or accrual of cause of action, whichever is earlier.

13. INFRINGEMENT - VENDOR WARRANTY

The Seller shall deliver the Goods specified free from the claim of any third party by way of infringement including but not limited to patent, copyright, trade secrets, or the like. The submission of a bid is deemed to be a warranty by the Seller that Seller has inspected the specifications and has determined that no claim of any third party by way of infringement or otherwise will result from compliance with the specifications. The Seller shall indemnify and hold the City harmless against any such claim regardless of whether or not the infringement arises out of compliance with the specifications. The City may retain any funds due or to become due to the Seller sufficient to meet all claims arising from such infringements. The sufficiency of such amount shall be conclusively determined by the Comptroller.

14. AUDIT BY THE DEPARTMENT, AGENCY AND CITY

14.1 Invoices Subject to Audit. All vouchers or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said vouchers or invoices are based, are subject to audit by the Department, Agency and the Comptroller of the City of New York pursuant to the powers and responsibilities as conferred by the New York City Charter and Administrative Code of the City of New York, as well as all orders and regulations promulgated pursuant thereto.

14.2 Submission of Records. The Seller shall submit any and all documentation and justification in support of expenditures or fees under this Contract as may be required by the Department, Agency and the Comptroller so that they may evaluate the reasonableness of the charges and shall make its records available to the Department, Agency and the Comptroller as they consider necessary.

14.3 Final Payment. The Seller shall not be entitled to final payment under this Contract until all requirements have been satisfactorily met.

15. DEFAULT

Agency Chief Contracting Officer's Right to Declare Seller in Default. In addition to any other remedy provided to the City pursuant to this Contract, the Agency Chief Contracting Officer shall have the right to declare the Seller in default if Seller fails to provide the Goods in accordance with any provisions of
this Contract, including but not limited to the specifications, the delivery schedule, or

other conditions of performance.

16. REGISTRATION OF CONTRACTS

16.1 Office of Comptroller. With the exception of a requirement contract, this Contract shall not be binding or of any force unless it has been registered on the books of the Office of the Comptroller, indicating that there remains unexpended and unapplied a balance of the appropriation or fund applicable hereto sufficient to pay the estimated expense of performing this Contract.

16.2 Requirement Contract. All requirement contracts shall be registered with the Comptroller without an appropriation or identification of a fund applicable thereto.

17. COMMUNICATIONS

All communications addressed to the Seller and delivered at Seller's residence or place of business as given in Seller's bid, or deposited so addressed in a postpaid wrapper in any post office regularly maintained by the Post Office Department, shall be sufficient service thereof upon the Seller for the purposes of this Contract. The place so designated may be changed only by a writing executed and acknowledged by the Seller and delivered to the Agency Chief Contracting Officer. Personal service of communications upon the Seller shall not be precluded or rendered inoperative by any provision of this Contract.

18. INCREASE OR REDUCTION OF QUANTITIES

The City 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 documents with the approval of the lowest responsible bidder.

The unit prices shall not vary notwithstanding any increase or reduction in the quantities to be delivered hereunder, and no claims for damages shall be made by or allowed to the Seller by reason of such increase or reduction, except that when a trade discount bid is based on quantities or totals, prices will vary in accordance with the trade discounts bid herein, on which basis this Contract is awarded, or unless otherwise authorized by this Contract.

19. APPROVALS AND CERTIFICATIONS

19.1 Approvals. This Contract shall be neither binding nor effective unless:

(a) Approved by the Mayor pursuant to the provisions of Executive Order No. 42, dated October 9, 1975, in the event the Executive Order requires such approval;

(b) Certified by the Mayor (Mayor's Fiscal Committee created pursuant to Executive Order No. 43, dated October 14, 1975) that performance thereof will be in accordance with the City's financial plan, if required;

19.2 Approvals Not in Lieu of Other Requirements.

The requirements of this Section of this Contract shall be in addition to, and not in lieu of, any approval or authorization otherwise required for this Contract to be effective and for the expenditure of City Funds.

20. ANTITRUST

The Seller hereby assigns, sells, and transfers to the City all right, title and interest in and to any claims and causes of action arising under the antitrust laws of the State of New York or of the United States relating to the particular Goods or services purchased or procured by the City under this Contract.

21. SEVERABILITY AND HEADINGS

The clauses and provisions of this Contract are intended to be severable. The unconstitutionality or unconscionability of any term, clause or provision shall in no way defeat the effect of any other term, clause or provision. Section and other headings are inserted for convenience only and shall not be used in any way to construe the terms of this Contract.

22. CONFLICT OF LAWS

All disputes which involve this Contract shall be governed by the laws of the State of New York.

23. CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

23.1 Law of New York State. This Contract shall be deemed to be executed in the City of New York, State of New York, regardless of the domicile of the Seller, and shall be governed by and construed in accordance with the laws of the State of New York.

23.2 Venue in City. The parties agree that any and all claims asserted by or against the City arising under this Contract or related thereto shall be heard and determined either in the courts of the United States located in New York City ("Federal Courts") or in the courts of the State of New York ("New York State Courts") located in the City and County of New York. To effect this agreement and intent, the Seller agrees:

(a) If the City initiates any action against the Seller in Federal Court or in New York State Court, service of process may be made on the Seller either in person, wherever the Seller may be found, or by registered mail addressed to the Seller

at its address as set forth in this Contract, or to such other address as the Seller may provide to the City in writing in accordance with this Contract.

(b) A summons in any action arising out of this Contract may issue from any Court of the State of New York having jurisdiction of the subject matter and service of the summons and complaint against the Seller, served as herein provided, shall be deemed personal service upon the Seller within the State of New York if a copy of each is sent by certified mail addressed to the Seller at the place stated in this Contract, or if such address has been changed pursuant to Section 18, to such changed address.

(c) Within thirty (30) days after the date of mailing, a copy of the summons and complaint shall be filed with the clerk of the Court in which the action is pending, along with the mailing receipt issued by the Post Office or the affidavit of any officer or employee of the City showing that the summons and complaint were mailed as herein provided. Service shall be complete ten (10) days after such papers are filed.

(d) With respect to any action between the City and the Seller in New York State Court, the Seller hereby expressly waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens; (ii) to remove to Federal Court; and (iii) to move for a change of venue to a New York State Court outside New York County.

(e) With respect to any action between the City and the Seller in Federal Court located in New York City, the Seller expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a United States Court outside the City of New York.

(f) If the Seller commences any action against the City in a court located other than in the City and State of New York, upon request of the City, the Seller shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is initially brought will not or cannot transfer the action, the Seller shall consent to dismiss such action without prejudice and may thereafter re-institute the action in a court of competent jurisdiction in New York City.

23.3 Unenforceable Provision. If any provision(s) of this Section is (are) held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect.

24. EMERGENCY

24.1 Suspension or Termination. Whenever, in the opinion of the Agency Chief Contracting

Officer, an emergency situation arises during the performance of this Contract, the Agency Chief Contracting Officer may either suspend or terminate this Contract in whole or in part without liability being incurred by either the City or the Seller.

24.2 Right to Purchase Goods. Pursuant to such decision by the Agency Chief Contracting Officer, where this Contract is terminated in whole or in part, the Agency Chief Contracting Officer may purchase such Goods the delivery of which has been cancelled (in replacement for those called for in this Contract).

25. VENDOR INTEGRITY

The Seller agrees that in the event the Seller or any of its principals or officers are indicted for or otherwise charged with any crime or become the subject of any anti-trust action related to the conduct of the business of the Seller or the award of or performance under any contract or agreement with a government entity or if any supervisory employee of the Seller is indicted based upon facts arising out of the award of or affecting performance under this Contract then the Agency Chief Contracting Officer, in his/her sole discretion, may terminate this Contract by notifying Seller, in writing. In the event of termination of this Contract, the Seller shall not be entitled to any damages or payments for Goods not delivered by date of termination.

26. VENDOR GUARANTEE

The Seller guarantees that the equipment offered is standard new equipment, current model of regular stock product with all parts regularly used with the type of equipment offered; also that no attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice. Every unit, including any substituted or replacement unit delivered, must be guaranteed against faulty material and workmanship for a period of one year from and after the date the unit is accepted unless otherwise specified. Notwithstanding the foregoing, when the manufacturer's standard guarantee for the unit or any component thereof exceeds one year, the longer guarantee period shall apply to such unit or component thereof delivered under the City's contract. Furthermore, the Seller agrees to extend its warranty period with regard to any unit delivered by the cumulative periods of time, after notification, during which the unit requires servicing or replacement (down time) or is in the possession of the Seller, its agents, officers or employees. If during the regular or extended warranty periods faults develop, the Seller 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 goods during the warranty periods shall be borne solely by the Seller, and the City shall in no event be liable or responsible therefor. In the event of failure on the part of the Seller to replace or put in first-class condition any such equipment within thirty (30) calendar days from date of notice the City may have the work done by others and offset the cost against money due, or that may become due to the Seller, or if there be no money due, the Seller agrees to pay the City such cost.

27. NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

No claim whatsoever shall be made by the Seller against any officer, agent or employee of the City for, or on account of, anything done or omitted in connection with this Contract.

28. FUND AVAILABILITY

All contracts awarded by the Agency Chief Contracting Officer shall be executory only to the extent of funds available to each Agency for the purchase of the Goods.

29. ENTIRE AGREEMENT

The written Contract contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

30. PROVISIONS FOR COOPERATIVE PURCHASING ARRANGEMENTS AND FOR EXTENSION OF REQUIREMENT CONTRACTS FOR USAGE BY OTHER GOVERNMENT/QUASI-GOVERNMENTAL AGENCIES

All agencies of the City of New York, the Department of Education, Health and Hospitals Corporation, and the New York City Housing Authority, are entitled to use this contract. In addition, any governmental or quasi-governmental agency that has executed a cooperative purchasing Memorandum of Understanding with the City may utilize this contract with the consent of the vendor provided the agency pays any additional delivery charges outside the metropolitan area as agreed upon with the vendor. These agencies are called "participating agencies." Participating agencies and the contractor understand and acknowledge that the responsibility in regard to performance of any such contract or any condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating agency and the contractor and not the agency letting this contract.

PART IV
SPECIAL CONDITIONS

1. NONDISCRIMINATION

1.1 Executive Order No. 50 (1980). This Contract is subject to the requirements of New York City Charter Chapter 56, §§ 1305 et seq. ("Chapter 56"), Executive Order No. 50 (1980) ("E.O. 50"), and the Rules and Regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this Contract, the Seller agrees that it:

(a) will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, affectional preference or citizenship status, with respect to all employment decisions including, but not limited to recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

(b) will not discriminate in the selection of subcontractors on the basis of the owners', partners' or shareholders' race, color, creed, national origin, sex, age, disability, marital status, sexual orientation, affectional preference or citizenship status;

(c) will state in all solicitations or advertisements for employees placed by or on behalf of the Seller that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, affectional preference or citizenship status, or that it is an equal opportunity employer;

(d) will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under Chapter 56 and E.O. 50 and the rules and regulations promulgated thereunder; and

(e) will furnish before the contract is awarded all information and reports, including an Employment Report, which are required by Chapter 56, E.O. 50, the rules and regulations promulgated thereunder, and orders of the Director of the Division of Labor Services ("DLS"). Copies of all required reports are available upon request from the contracting agency; and

(f) will permit DLS to have access to all relevant books, records and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) Seller understands that in the event of its noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of this Contract and noncompliance with Chapter 56, E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of DLS, the Director may direct the imposition by the contracting agency head of any or all of the following sanctions:

(i) disapproval of the Seller;

(ii) suspension or termination of all or parts of this Contract and/or of payments therefor;

(iii) declaring the Seller in default; or

(iv) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

(h) The Director of DLS may recommend to the contracting agency head that a seller who has repeatedly failed to comply with Chapter 56, E.O. 50 and the rules and regulations promulgated thereunder be declared nonresponsible.

(i) The Seller agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of $100,000 to which it becomes a party unless exempted by Chapter 56, E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The Seller will take such action with respect to any subcontract or purchase order as may be directed by the Director of the Division of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

(j) The Seller further agrees that it will refrain from entering into any contract or contract modification subject to Chapter 56, E.O. 50 and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of Chapter 56, E.O. 50 and the rules and regulations promulgated thereunder.

1.2 New York Labor Law Section 220-e:

(a) In the hiring of employees for the performance of work under this Contract or any subcontract hereunder, neither the Seller, subcontractor, nor any person acting on behalf of the Seller or subcontractor shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

(b) Neither the Seller, subcontractor, nor any person acting on his behalf shall in any manner discriminate against or intimidate any employee hired for the performance of work under this Contract on account of race, creed, color, disability, sex or national origin;

(c) There may be deducted from the amount payable to the Seller by the City under this Contract a penalty of fifty (50) dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation

of the provisions of this Contract; and

(d) This Contract may be cancelled or terminated by the City and all monies due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this subsection of this Contract.

(e) The aforesaid provisions of this subsection covering every contract for or on behalf of the State or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.

1.3 New York City Administrative Code Section 6-108:

(a) It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways pursuant to a contract with the City or engaged in the manufacture, sale or distribution of Goods pursuant to a contract with the City to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.

(b) It shall be unlawful for any person or any servant, agent or employee of any person described in subdivision (a) above to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color, creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.

(c) Disobedience of the foregoing provisions shall be deemed a violation of a material provision of this Contract.

(d) Any person, or employee, manager or owner of or officer of a firm or corporation who shall violate any of the provisions of this subsection shall, upon conviction thereof, be punished by a fine of not more than one hundred ($100) dollars or by imprisonment for not more than thirty (30) days, or both.

2. <u>LABOR LAW REQUIREMENTS</u>

2.1 Section 6-109 of the Administrative Code of The City of New York.

(a) Section 6-109(a).

(i) Except for those employees whose minimum wage is required to be fixed by Section 220 of the Labor Law of the State of New York, all persons employed by the Seller and any subcontractor in the manufacture or furnishing of supplies, materials or equipment, or the

furnishing of work, labor or services used in the performance of this Contract will be paid, without subsequent deduction or rebate unless expressly authorized by law, not less than the sum mandated by law.

(ii) No part of the work, labor or services will be performed or rendered by the Seller in any plants, factories, buildings or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of this Contract. Compliance with the safety, sanitary and factory inspection laws of the state in which the work is to be performed shall be prima facie evidence of compliance with this paragraph.

(iii) For any breach or violation of any of the representations and stipulations required in any Contract under the provisions of this subsection, the party responsible therefor shall be liable to the City for liquidated damages, which may be withheld from any amounts due on any such Contracts or may be recovered in suits brought by the Corporation Counsel in the name of the City, in addition to damages for any other breach of such Contract, a sum equal to the amount of any underpayment of wages due to any employee engaged in the performance of such Contract. In addition, the Department of Citywide Administrative Services or any other agency entering into such Contract shall have the right to cancel the Contract for any violation of this subsection and enter into other contracts for the completion of the original Contract, charging any additional cost to the original Seller. All sums withheld or recovered as deductions, rebates, refunds, or underpayments of wages in violation of the provisions of this subsection shall be held in a special deposit account and shall be paid without interest, on order of the Executive Director for Economic Development, directly to the employees who have been paid less than minimum rates of pay as set forth in such Contracts and on whose account such sums were withheld or recovered, provided that no claims by employees for such payments shall be entertained unless made within one year from the date of actual notice to the Seller of the withholding or recovery of such sums by the City.

(b) Section 6-109(b).

The provisions of subdivision (a) of section 6-109 shall not apply to contracts for the furnishing or purchase of agricultural or farm products processed for first sale by the original producers; nor shall subdivision (a) of section 6-109 apply to any work performed on any contract outside of the United States or its territories.

2.2 Worker's Compensation Laws

If this Contract be of such a character that the employees engaged thereon are required to be insured by the provisions of the New York Worker's Compensation Law, and acts amendatory thereto, the same shall be void and of no effect unless the Seller shall secure compensation for the benefit of, and keep insured during the life of this Contract such employees in compliance with the provisions of said law.

3. INVESTIGATIONS

3.1 The parties to this Contract agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

3.2 (a) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or;

(b) If any person refuses to testify for a reason other than the assertion of his or her privilege against self incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

3.3 (a) The Agency Chief Contracting Officer or Agency Head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) days written notice to the parties involved to determine if any penalties should attach

for the failure of a person to testify.

(b) If any non-governmental party to the hearing requests an adjournment, the Agency Chief Contracting Officer or Agency Head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to 3.5 below without the City incurring any penalty or damages for delay or otherwise.

3.4 The penalties which may attach after a final determination by the Agency Chief Contracting Officer or Agency Head may include but shall not exceed:

(a) The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

(b) The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages in account of such cancellation or termination; monies lawfully due for Goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

3.5 The Agency Chief Contracting Officer or Agency Head shall consider and address in reaching his/her determination and in assessing an appropriate penalty the factors in paragraphs 3.5(a) and 3.5(b) below. S/he may also consider, if relevant and appropriate, the criteria established in paragraphs 3.5(c) and 3.5(d) below in addition to any other information which may be relevant and appropriate:

(a) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(b) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(c) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

(d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under 3.4 above, provided that the party or entity has given actual notice to the Agency Chief Contracting Officer or Agency Head upon the acquisition of the interest, or at the hearing called for in 3.3(a) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

3.6 Definitions for purposes of this section shall include the following:

(a) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

(b) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

(c) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.

(d) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

3.7 In addition to and notwithstanding any other provision of this Contract the Agency Chief Contracting Officer or Agency Head may in his or her sole discretion terminate this Contract upon not less than three (3) days written notice in the event Seller fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this Contract by the contractor, or affecting the performance of this Contract.

4. TOXIC SUBSTANCES - MATERIAL SAFETY DATA SHEETS

Under the New York State Labor Law, Article 28 (the Right to Know Law), Section 876, any manufacturer, importer, producer or formulator of any substance sold for any use within the

state must provide, upon request, specific information on the health hazards and proper handling of such substances. The City of New York, in order to meet its responsibilities under the Law as an employer, requires that manufacturers and suppliers submit such information in the form of a Material Safety Data Sheet for any toxic substance or product containing a toxic substance for any item for which Seller submits a bid. Any questions regarding the toxicity of a substance or the requirements of a Material Data Sheet should be addressed to the New York State Bureau of Toxic Assessment.

5. PARTICIPATION IN AN INTERNATIONAL BOYCOTT

5.1 The Seller agrees that neither the Seller nor any affiliate is participating or shall participate in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations of the United States Department of Commerce promulgated thereunder.

5.2 Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of the Seller or an affiliated company thereof, participation in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Comptroller may, at his/her option, render forfeit and void this Contract.

5.3 The Seller shall comply in all respects, with the provisions of Section 6-114 of the Administrative Code of the City of New York and the rules and regulations issued by the Comptroller thereunder.

6. MACBRIDE PRINCIPLES PROVISIONS

ARTICLE I. MACBRIDE PRINCIPLES

NOTICE TO ALL PROSPECTIVE CONTRACTORS

Local Law No. 34 of 1991 became effective on September 10, 1991 and added section 6-115.1 to the Administrative Code of the City of New York. The local law provides for certain restrictions on City contracts to express the opposition of the people of the City of New York to employment discrimination practices in Northern Ireland and to encourage companies doing business in Northern Ireland to promote freedom of workplace opportunity.

Pursuant to Section 6-115.1, prospective contractors for contracts to provide goods or services involving an expenditure of an amount greater than ten thousand dollars, or for construction involving an amount greater than fifteen thousand dollars, are asked to sign a rider in which they convenant and represent, as a material condition of their contract, that any business in Northern Ireland operations conducted by the contractor and any individual or legal entity in which the contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor will be conducted in accordance with the MacBride

Principles of nondiscrimination in employment.

Prospective contractors are not required to agree to these conditions. However, in the case of contracts let by competitive sealed bidding, whenever the lowest responsible bidder has not agreed to stipulate to the conditions set forth in this notice and another bidder who has agreed to stipulate to such conditions has submitted a bid within five percent of the lowest responsible bid for a contract to supply goods, services or construction of comparable quality, the contracting entity shall refer such bids to the Mayor, the Speaker or other officials, as appropriate, who may determine, in accordance with applicable law and rules, that it is in the best interest of the city that the contract be awarded to other than the lowest responsible bidder pursuant to Section 313(b)(2) of the City Charter.

In the case of contracts let by other than competitive sealed bidding, if a prospective contractor does not agree to these conditions, no agency, elected official or the Council shall award the contract to that bidder unless the entity seeking to use the goods, services or construction certifies in writing that the contract is necessary for the entity to perform its functions and there is no other responsible contractor who will supply goods, services or construction of comparable quality at a comparable price.

PART A

In accordance with section 6-115.1 of the Administrative Code of the City of New York, the contractor stipulates that such contractor and any individual or legal entity in which the contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

PART B

For purposes of this section, the following terms shall have the following meanings:

1. "MacBride Principles" shall mean those principles relating to nondiscrimination in employment and freedom of workplace opportunity which require employers doing business in Northern Ireland to:

    (1) increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;

    (2) take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;

(3) ban provocative religious or political emblems from the workplace;

(4) publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;

(5) establish layoff, recall and termination procedures which do not in practice favor a particular religious group;

(6) abolish all job reservations, apprenticeship restrictions and different employment criteria which discriminate on the basis of religion;

(7) develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;

(8) establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and

(9) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

ARTICLE II. ENFORCEMENT OF ARTICLE I.

The contractor agrees that the covenants and representations in Article I above are material conditions to this contract. In the event the contracting entity receives information that the contractor who made the stipulation required by this section is in violation thereof, the contracting entity shall review such information and give the contractor an opportunity to respond. If the contracting entity finds that a violation has occurred, the entity shall have the right to declare the contractor in default and/or terminate this contract for cause and procure the supplies, services or work from another source in any manner the entity deems proper. In the event of such termination, the contractor shall pay to the entity, or the entity in its sole discretion may withhold from any amounts otherwise payable to the contractor, the difference between the contract price for the uncompleted portion of this contract and the cost to the contracting entity of completing performance of this contract either itself or by engaging another contractor or contractors. In the case of a requirement contract, the contractor shall be liable for such difference in price for the entire amount of supplies required by the contracting entity for the uncompleted term of its contract. In the case of a construction contract, the contracting entity shall also have the right to hold the contractor in partial or total default in accordance with the default provisions of this contract, and/or may seek debarment or suspension of the contractor. The rights and remedies of the entity hereunder shall be in addition to, and not in lieu of, any rights and remedies the entity has pursuant to this contract or by operation of law.

7. RESOLUTION OF DISPUTES

7.1 Except as provided in 7.1(a) and 7.1(b) below, all disputes between the City and the vendor that arise under, or by virtue of, this contract shall be finally resolved in accordance with the provisions of this section and Section 4-09 of the Rules of the Procurement Policy Board ("PPB Rules"). This procedure shall be the exclusive means of resolving any such disputes.

(a) This section shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules or to disputes involving patents, copyrights, trademarks, or trade secrets (as interpreted by the courts of New York State) relating to proprietary rights in computer software.

(b) For construction and construction-related services this section shall apply only to disputes about the scope of work delineated by the contract, the interpretation of contract documents, the amount to be paid for extra work or disputed work performed in connection with the contract, the conformity of the vendor's work to the contract, and the acceptability and quality of the vendor's work; such disputes arise when the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner makes a determination with which the vendor disagrees.

7.2 All determinations required by this section shall be clearly stated, with a reasoned explanation for the determination based on the information and evidence presented to the party making the determination. Failure to make such determination within the time required by this section shall be deemed a non-determination without prejudice that will allow application to the next level.

7.3 During such time as any dispute is being presented, heard, and considered pursuant to this section, the contract terms shall remain in full force and effect and the vendor shall continue to perform work in accordance with the contract and as directed by the Agency Chief Contracting Officer ("ACCO") or Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner. Failure of the vendor to continue the work as directed shall constitute a waiver by the vendor of any and all claims being presented pursuant to this section and a material breach of contract.

7.4 Presentation of Dispute to Agency Head.

(a) Notice of Dispute and Agency Response. The vendor shall present its dispute in writing ("Notice of Dispute") to the Agency Head within the time specified herein, or, if no time is specified, within thirty (30) days of receiving written notice of the determination or action that is the subject of the dispute. This notice requirement shall not be read to replace any other notice requirements contained in the contract. The Notice of Dispute shall include all the facts,

evidence, documents, or other basis upon which the vendor relies in support of its position, as well as a detailed computation demonstrating how any amount of money claimed by the vendor in the dispute was arrived at. Within thirty (30) days after receipt of the complete Notice of Dispute, the ACCO or, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner, shall submit to the Agency Head all materials he or she deems pertinent to the dispute. Following initial submissions to the Agency Head, either party may demand of the other the production of any document or other material the demanding party believes may be relevant to the dispute. The requested party shall produce all relevant materials that are not otherwise protected by a legal privilege recognized by the courts of New York State. Any question of relevancy shall be determined by the Agency Head whose decision shall be final. Willful failure of the vendor to produce any requested material whose relevancy the vendor has not disputed, or whose relevancy has been affirmatively determined, shall constitute a waiver by the vendor of its claim.

(b) Agency Head Inquiry. The Agency Head shall examine the material and may, in his or her discretion, convene an informal conference with the vendor and the ACCO and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner, to resolve the issue by mutual consent prior to reaching a determination. The Agency Head may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she deems fit. The Agency Head's ability to render, and the effect of, a decision hereunder shall not be impaired by any negotiations in connection with the dispute presented, whether or not the Agency Head participated therein. The Agency Head may or, at the request of any party to the dispute, shall compel the participation of any other vendor with a contract related to the work of this contract and that vendor shall be bound by the decision of the Agency Head. Any vendor thus brought into the dispute resolution proceeding shall have the same rights and obligations under this section as the vendor initiating the dispute.

(c) Agency Head Determination. Within thirty (30) days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Agency Head shall make his or her determination and shall deliver or send a copy of such determination to the vendor and ACCO and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner, together with a statement concerning how the decision may be appealed.

(d) Finality of Agency Head Decision. The Agency Head's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board ("CDRB") pursuant to this section. The City may not take a petition to the CDRB. However, should the vendor take such a petition, the City may seek, and the CDRB may render, a determination less favorable to the vendor and more favorable to the City than the decision of the Agency Head.

7.5 Presentation of Dispute to the Comptroller. Before any dispute may be brought by the vendor to the CDRB, the vendor must first present its claim to the Comptroller for his or her review, investigation, and possible adjustment.

(a) Time, Form, and Content of Notice. Within thirty (30) days of receipt of a decision by the Agency Head, the vendor shall submit to the Comptroller and to the Agency Head a Notice of Claim regarding its dispute with the agency The Notice of Claim shall consist of (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed and the reason(s) the vendor contends the dispute was wrongly decided by the Agency Head, (ii) a copy of the decision of the Agency Head, and (iii) a copy of all materials submitted by the vendor to the agency, including the Notice of Dispute. The vendor may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

(b) Agency Response. Within thirty (30) days of receipt of the Notice of Claim, the agency shall make available to the Comptroller a copy of all material submitted by the agency to the Agency Head in connection with the dispute. The agency may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

(c) Comptroller Investigation. The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in sections 7-201 and 7-203 of the New York City Administrative Code. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the vendor. Willful failure of the vendor to produce within fifteen (15) days any material requested by the Comptroller shall constitute a waiver by the vendor of its claim. The Comptroller may also schedule an informal conference to be attended by the supplier, agency representatives, and any other personnel desired by the Comptroller.

(d) Opportunity of Comptroller to Compromise or Adjust Claim. The Comptroller shall have forty-five (45) days from his or her receipt of all materials referred to in 7.5(c) to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the vendor and the

Comptroller, to a maximum of ninety (90) days from the Comptroller's receipt of all the materials. The vendor may not present its petition to the CDRB until the period for investigation and compromise delineated in this paragraph has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the contract between the parties.

7.6 Contract Dispute Resolution Board. There shall be a Contract Dispute Resolution Board composed of:

(a) the chief administrative law judge of the Office of Administrative Trials and Hearings ("OATH") or his/her designated OATH administrative law judge, who shall act as chairperson, and may adopt operational procedures and issue such orders consistent with this section as may be necessary in the execution of the CDRB's functions, including, but not limited to, granting extensions of time to present or respond to submissions;

(b) the City Chief Procurement Officer ("CCPO") or his/her designee; any designee shall have the requisite background to consider and resolve the merits of the dispute and shall not have participated personally and substantially in the particular matter that is the subject of the dispute or report to anyone who so participated , and

(c) a person with appropriate expertise who is not an employee of the City. This person shall be selected by the presiding administrative law judge from a prequalified panel of individuals, established and administered by OATH, with appropriate background to act as decision-makers in a dispute. Such individuals may not have a contract or dispute with the City or be an officer or employee of any company or organization that does, or regularly represent persons, companies, or organizations having disputes with the City.

7.7 Petition to CDRB. In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this section, the vendor, within thirty (30) days thereafter, may petition the CDRB to review the Agency Head determination.

(a) Form and Content of Petition by Vendor. The vendor shall present its dispute to the CDRB in the form of a Petition, which shall include (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed, and the reason(s) the vendor contends that the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; (iii) copies of all materials submitted by the vendor to the agency; (iv) a copy of the decision of the Comptroller, if any, and (v) copies of all correspondence with, and material submitted by the vendor to, the Comptroller's Office. The vendor shall concurrently submit four complete sets of the Petition: one to the Corporation Counsel (Attn: Commercial and Real Estate Litigation Division), and three to

the CDRB at OATH's offices, with proof of service on the Corporation Counsel. In addition, the vendor shall submit a copy of the statement of the substance of the dispute, cited in (i) above, to both the Agency Head and the Comptroller.

(b) Agency Response. Within thirty (30) days of receipt of the Petition by the Corporation Counsel, the agency shall respond to the statement of the vendor and make available to the CDRB all material it submitted to the Agency Head and Comptroller. Three complete copies of the agency response shall be submitted to the CDRB at OATH's offices and one to the vendor. Extensions of time for submittal of the agency response shall be given as necessary upon a showing of good cause or, upon the consent of the parties, for an initial period of up to thirty (30) days.

(c) Further Proceedings. The Board shall permit the vendor to present its case by submission of memoranda, briefs, and oral argument. The Board shall also permit the agency to present its case in response to the vendor by submission of memoranda, briefs, and oral argument. If requested by the Corporation Counsel, the Comptroller shall provide reasonable assistance in the preparation of the agency's case. Neither the vendor nor the agency may support its case with any documentation or other material that was not considered by the Comptroller, unless requested by the CDRB. The CDRB, in its discretion, may seek such technical or other expert advice as it shall deem appropriate and may seek, on it own or upon application of a party, any such additional material from any party as it deems fit. The CDRB, in its discretion, may combine more than one dispute between the parties for concurrent resolution.

(d) CDRB Determination. Within forty-five (45) days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of time, not to exceed ninety (90) days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of the contract. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.

(e) Notification of CDRB Decision. The CDRB shall send a copy of its decision to the vendor, the ACCO, the Corporation Counsel, the Comptroller, the CCPO, the Office of Construction, the PPB, and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner. A decision in favor of the vendor shall be subject to the prompt payment provisions of the PPB Rules. The Required Payment Date shall be thirty (30) days after the date the parties are formally notified of the CDRB's decision.

(f) Finality of CDRB Decision. The CDRB's decision shall be final and binding on all parties. Any party may seek review of the CDRB's decision solely in the form of a challenge, filed within four months of the date of the CDRB's decision, in a court of competent jurisdiction of the State of New York, County of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such review by the court shall be limited to the question of whether or not the CDRB's decision was made in violation of lawful procedure, was affected by an error of law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such proceeding that was not presented to the CDRB in accordance with Section 4-09 of the PPB Rules.

7.8 Any termination, cancellation, or alleged breach of the contract prior to or during the pendency of any proceedings pursuant to this section shall not affect or impair the ability of the Agency Head or CDRB to make a binding and final decision pursuant to this section.

8. VENDEX QUESTIONNAIRES

Pursuant to Administrative Code §6-116.2 and Section 2-08(e) of the Rules of the Procurement Policy Board (9 RCNY §2-08), bidders may be obligated to submit completed VENDEX questionnaires. Generally, if this bid is $100,000 or more, or if this bid when added to the sum total of all contracts, concessions and franchises the bidder has received from the City and any subcontracts received from City contractors over the past twelve months, equals or exceeds $100,000, VENDEX questionnaires must be completed and submitted by those bidders selected for award and reviewed by the Department of Investigation prior to award. Any questions concerning this requirement must be submitted to the Agency Chief Contracting Officer or the contact person for this contract.

Failure to submit the required VENDEX questionnaires may result in a finding of non-responsiveness which would preclude a bidder from being awarded this contract.

Pursuant to Section 2-08(e)(8) of the Rules of the Procurement Policy Board, whenever the City Chief Procurement Officer has permitted the filing of some or all of the required information within thirty (30) days after the registration of the contract, the submission of the required information within the required time period is a material term and condition of the contract and the City may terminate the contract without penalty to the City in the event of violation of the condition. The Mayor or his/her designee may determine on the basis of the belatedly filed information that it is in the best interest of the City to terminate the contract. The Comptroller or his/her designee may determine that the belatedly filed information reveals matters which if provided earlier would have provided a basis for an objection to registration of the contract by the Comptroller, and the Mayor or his/her designee may determine that he/she would have agreed with such determination and may terminate the contract. Notwithstanding any provision of this Agreement to the contrary, if the City terminates this Agreement pursuant

to the provisions, the City shall have no obligation to pay to the Seller any amounts representing lost or anticipated profits, and shall retain any other rights it has in law or contract to recover monies paid to the Seller prior to termination of this Agreement.

Pursuant to Section 2-08(e)(9) of the Rules of the Procurement Policy Board, whenever a late filing of required VENDEX information, i.e., within thirty (30) days after the registration of the contract, is permitted and the vendor fails to submit the required information within the required time period, that fact shall be communicated to the City Chief Procurement Officer and the Comptroller and shall be included in the VENDEX data base. Until the information has been filed with the City Chief Procurement Officer:

(i) No further contract shall be awarded to that vendor;

(ii) The vendor shall be ineligible to bid or propose or otherwise be awarded a further contract; and

(iii) No payments shall be made to the vendor for performance on that contract unless authorized in writing by the City Chief Procurement Officer.

9. INSTALLATIONS

9.1 Labor Law. The Seller specifically agrees, as required by Labor Law Sections 220 and 220-d, as amended, that with respect to public work contracts:

(a) No laborer, workman, or mechanic, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or any 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 days in one week, except in the emergencies set forth in the Labor Law.

(b) The wages paid for a legal day's work shall be not less than the prevailing rate of wages as defined by law.

(c) The minimum hourly rate of wage to be paid shall not be less than that stated in the specifications, and any redetermination of the prevailing rate of wages after the contract is approved shall be deemed to be incorporated herein by reference as of the effective date of redetermination and shall form a part of these contract documents.

(d) The Labor Law provides that the contract may be forfeited and no sum paid for any work done thereunder on a second conviction for willfully paying less than:

(1) The stipulated wage scale as provided in Labor Law, Section 220, subdivision 3, as amended, or

(2) Less than the stipulated minimum hourly wage scale as provided in Labor Law, Section 220-d, as amended.

9.2 Seller's Obligations.

(a) Bidders shall acquaint themselves with conditions to be found at the site and shall assume all responsibility for placing and installing the equipment in the required locations.

(b) Where the Invitation For Bids involves performance of services on City facilities, all bidders are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the Contract. In no event will a failure to inspect a site constitute grounds for withdrawal of a bid after opening or for a claim after award of the Contract.

(c) All materials used in the installation shall be of good quality and shall be free from any and all defects which would mar the appearance of the equipment or render it structurally unsound.

(d) The Seller shall protect the site from damage for all its work and shall repair damages or injury of any kind caused by the Seller, its employees, officers or agents.

(e) Work shall be performed so as to cause the least inconvenience to the City, and its Agencies and with proper consideration for the rights of other contractors or workers. The Seller shall promptly perform its work and shall coordinate its activities with those of other contractors.

(f) Installation shall include the furnishing of any equipment, rigging and materials required to install or replace the contract item in the proper location. If any alteration, dismantling or excavation, or the like is required to effect installation, the Seller shall thereafter promptly restore the structure or site to its original condition.

(g) Materials, equipment or supplies shall be stored at the site only with the approval of the using Agency and at the Seller's sole risk. In general, such on-site storage should be avoided to prevent possible damage to or loss of the material.

(h) The Seller shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work the premises shall be left in a neat unobstructed condition, the buildings broom clean, and everything in satisfactory repair and order.

10. LAW INSERTED

It is the intent and understanding of the parties to this Contract that each and every provision of law required to be inserted in this Contract shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted herein, and if, through mistake or otherwise, any provision is not inserted herein or is not inserted in correct form, then this Contract shall forthwith, upon the application of either party, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party.

11. BREACH OF CONTRACT

Any breach or violation of any of the subdivisions of this Part IV entitled "Special Conditions" shall be deemed a breach or violation of a material provision of this Contract.

12. PROHIBITION ON PURCHASE OR USE OF TROPICAL HARDWOODS

Tropical hardwoods, as defined in Section 165-b of the State Finance Law shall not be utilized in the performance of this contract except as expressly permitted by the foregoing provisions of law.

PART V
AFFIRMATIONS

THE SELLER AFFIRMS AND DECLARES THAT:

1. NO OTHER PERSON INTERESTED.

The Seller is of lawful age and is the only one interested in this bid and that no other person, firm or corporation has any interest in this bid or in the Contract.

2. CERTIFICATIONS

By submission of its bid, each Seller and each person signing on behalf of any Seller 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 its knowledge and belief:

2.1 No Collusion. The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

2.2 Prices Not Disclosed. Unless otherwise required by law, the prices which have been

quoted in this bid have not been knowingly disclosed by the Seller and will not knowingly be disclosed by the Seller prior to opening, directly or indirectly, to any other bidder or to any competitor;

2.3 No Attempt to Restrict Competition. No attempt has been made or will be made by the Seller to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

3. NO INTEREST BY CITY OFFICER OR EMPLOYEE.

No member of the Council, or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested in this bid or in the Goods for which this bid is submitted or in the performance of this Contract, or in any portion of the profits thereof.

4. COMPLIANCE WITH SECTION 6-109 OF ADMINISTRATIVE CODE

The Seller, as an individual, or as a member, partner, director or officer of the Bidder, if the same be a firm, partnership or corporation, executes this document expressly warranting and representing that the Seller is not disqualified under the provisions of Section 6-109 of the Administrative Code for the award of this Contract and that should this bid be accepted by the City and this Contract awarded to it, it and its subcontractors engaged in the performance of this Contract: (i) will comply with the provisions of Section 6-109 of the Administrative Code of the City of New York in relation to minimum wages; and (ii) have complied with the provisions of said Section 6-109 and said rules and regulations since their respective effective dates insofar as applicable to the Seller and to its subcontractors.

4.1 If there has been a breach or violation of the aforesaid Section 6-109 or of the aforesaid rules and regulations, the Seller must state the time, place and circumstances of such breach or violation on the bid form submitted.

4.2 In the event of breach or violation of any of the foregoing, the Seller may be subject to damages, liquidated or otherwise, and cancellation of this Contract in whole or in part.

5. NON-DISCRIMINATION

The Seller, as an individual, or as a member, partner, director or officer of the bidder, if the same be a firm, partnership or corporation, executes this document expressly warranting and representing that should this bid be accepted by the City and this Contract awarded to it, it and its subcontractors engaged in the performance thereof (i) will comply with the provisions of Section 6-108 of the Administrative Code of the City of New York and the nondiscrimination provisions of Section 220-e of the New York State Labor Law; (ii) have complied with the provisions of the aforesaid laws since their respective effective dates; and (iii) will post notices to be furnished by the City, setting forth the requirements of the aforesaid laws in prominent

and conspicuous places in each and every plant, factory, building and structure where employees engaged in the performance of this Contract can readily view it, and will continue to keep such notices posted until the supplies, materials and equipment, or work, labor and services required to be furnished or rendered by the Seller have been finally accepted by the City.

6. NO PAYMENT OR GIFT

The Seller, if an individual bidder, or if the bidder be a firm, partnership or corporation, by executing this document as a member, partner, director or officer and on behalf of such firm, partnership or corporation, represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other Contract between the parties. The Seller makes such representations and warranties to induce the City to enter into this Contract and the City relies upon such representations and warranties in the execution hereof. For breach or violation of such representations or warranties, the Agency Chief Contracting Officer shall have the right to annul this Contract without liability, entitling the City to recover all monies paid hereunder and the Seller shall not make claims for, or be entitled to recover, any sum or sums due under this Contract. This remedy, if effected, shall not constitute the sole remedy afforded the City for the falsity or breach, nor shall it constitute a waiver of the City's right to claim damages or refuse payment or to take any other action provided for by law or pursuant to this Contract.