

**NEW YORK STATE
OFFICE OF PARKS, RECREATION & HISTORIC PRESERVATION**

COOPERATIVE AGREEMENT

DEVEAUX WOODS STATE PARK, NIAGARA FALLS, NEW YORK

This Cooperative Agreement is dated _____, and is between the STATE OF NEW YORK, acting by and through the Office of Parks, Recreation and Historic Preservation (“**State Parks**”), the CITY OF NIAGARA FALLS (“**City**”), and NIAGARA FALLS DOG PARK, INC. (“**Licensee**”), a New York corporation.

RECITALS:

Whereas, under Section 3.09(2) of the New York State Parks, Recreation and Historic Preservation Law, State Parks is authorized to maintain parks, historic sites, and recreational facilities by contract, lease, or license; and

Whereas, under Section 3.09(16) of the New York State Parks, Recreation and Historic Preservation Law, State Parks is authorized to enter contracts or other agreements with not-for-profit corporations or foundations to provide, either in whole or in part, for the operation, maintenance, or other services for any park, recreational facility, historic site, or program; and

Whereas, Deveau Woods State Park in Niagara Falls, New York (the “**Park**”) is owned by the People of the State of New York and under the jurisdiction of State Parks; and

Whereas, Licensee is a not-for-profit corporation organized under and pursuant to the Laws of the State of New York; and

Whereas, the City and Licensee wish to develop, operate, and maintain a dog park at Deveau Woods State Park in Niagara Falls, New York.

Now, therefore, the parties agree to the following:

Section 1. Contract Documents.

(a) This agreement is comprised of the following documents, all of which are hereby incorporated by reference:

- (i) Cooperative Agreement
- (ii) Attachment A – “Description of the Licensed Premises”
- (iii) Attachment C – “Requirements for Capital Construction Projects”
- (iv) Appendix A – “Standard Clauses for New York State Contracts”

(b) In the event of any inconsistency in or conflict among the document elements of this agreement, such inconsistency or conflict will be resolved by giving precedence to the document elements in the order set forth below:

- (i) Appendix A
- (ii) Cooperative Agreement, including all attachments and amendments

Section 2. Term

The term of this agreement commences on July 1, 2018 and continues until June 30, 2021, and may be renewed for additional consecutive three-year terms by written agreement of the parties.

Section 3. Grant of License

(a) State Parks hereby grants to the City and to Licensee the right to use and occupy approximately one acre of land at the Park as identified in Attachment A (the "Licensed Premises") for the development, operation, and maintenance of the dog park, subject to the terms and condition of this agreement. The City and Licensee acknowledge that the Licensed Premises constitutes public, non-residential space within a State park and that for all purposes hereunder State Parks grants only a right to use the Licensed Premises "as is/where is" and without warranty.

Section 4. Operation, Use, and Development

(a) The City shall, with the approval of State Parks as to the site plan and installation schedule, install the fences and amenities necessary for the Licensed Premises to be operated as a fully-enclosed, off-leash dog park. To the extent necessary to accomplish such installations, the license granted to the City in this agreement extends to the City's contractors and inspectors.

(b) Licensee shall be responsible for the following operation and maintenance activities at its sole cost and expense:

- (i) Removal of animal waste on a daily basis;
- (ii) Removal of trash, recycling, and other litter to Park trash and recycling receptacles

With respect to its operation and maintenance obligations, Licensee shall maintain the Licensed Premises and any equipment, fixtures, or ancillary facilities included under this agreement in a reasonably safe, attractive, operable, and sanitary condition at all times.

(c) State Parks will remain responsible for the following regular park maintenance activities within the Licensed Premises:

- (i) Mowing of grass within the fenced-in area
- (ii) Minor repair of latches or gates
- (iii) Winterization of water lines
- (iv) Routine plumbing issues
- (v) Production, installation and replacement of signage

State Parks shall provide the Licensed Premises with water service at no charge to the City or to Licensee. The City and Licensee each acknowledge that no other utilities are available at the Licensed Premises. State Parks is not required to install any water supply, sewer, or drain pipes or fixtures or electric, fuel oil, or gas lines or fixtures beyond those already in place on the date of this agreement.

(d) Neither Licensee nor the City may make any improvement or physical alteration to the Licensed Premises or install any fixtures, equipment, or signage without the prior written approval of State Parks. All approved additions, fixtures, or improvements installed or made by Licensee or the City will become the property of the State of New York upon completion unless the consent of State Parks therefor expressly provides otherwise.

(e) The City and Licensee shall not impose any user fees or charges for use of the Licensed Premises.

(f) The City and Licensee acknowledge that the Licensed Premises is subject to all applicable statewide and regional park regulations and Park-specific rules. State Parks shall post signage at the entrance(s) to the dog park listing the Park's dog park rules. Each of the City and Licensee acknowledge that it has no authority to waive any regulation or rule imposed by State Parks.

Section 5. Indemnification

(a) Each of the City and the Licensee, for itself, covenants and agrees to defend, indemnify, and hold harmless the State of New York and State Parks, and their officers, employees, and agents, from and against any claims, damages, losses, and expenses that arise from this agreement or from its own use of the Licensed Premises.

Section 6. Insurance

(a) Licensee Liability Insurance

(i) Licensee shall obtain general liability insurance at its own cost and expense, from a company licensed to conduct business in the State of New York. Such insurance policy shall name the State of New York, State Parks, the City of Niagara Falls and their officers, employees and agents as an additional insured. Such insurance policy shall have a liability limit of at least \$1,000,000 each occurrence and \$2,000,000 general aggregate. Such insurance policy shall be endorsed to provide written notice to State Parks at least thirty (30) days prior to cancellation, non-renewal or material alteration. Licensee's failure to maintain the required insurance coverage in full force and effect throughout the term of this License will result in the immediate termination of the License. Licensee shall require that all independent contractors and sub-licensees meet the insurance coverage requirements set forth in this Section.

(ii) Licensee shall deliver to State Parks and the City an ACORD 25 Certificate of Insurance prior to the start of this License and upon each renewal of said policy.

(b) City Liability Insurance

(i) The City states that it is self-insured and does not carry general liability insurance. The City shall provide State Parks with a statement of such self-insurance prior to commencing any activity on the Licensed Premises. The City shall require any of its contractors performing work under this agreement to comply with the insurance requirements of paragraphs (a) and (c) of this section.

(c) Workers' Compensation and Disability Benefits Insurance

Prior to the start of this License, each of the City and Licensee shall provide State Parks with proof of Workers' Compensation Insurance and Disability Benefits Insurance coverage in compliance with the Workers' Compensation Law. The following forms are the only acceptable means of proof: for workers' compensation a CE-200, C-105.2, U-26.3, or SI-12; for disability benefits a CE-200, DB-120.1, or DB-155.

Section 7. General Conditions

- (a) The City and Licensee shall comply with all federal and state laws, codes, and regulations applicable to the conduct of the activities authorized by this agreement.
- (b) The waiver by State Parks of any term or condition of this agreement is not a waiver of any other term or condition, nor is it a waiver of the subsequent breach thereof.
- (c) Each of the City and Licensee shall not assign or transfer this agreement without the prior written approval of State Parks.
- (d) Except for the descriptive use of the facility name in its advertising, the City and Licensee shall not use any State Parks or State of New York logo, trademark, or other intellectual property.

Section 8. Revocation

If at any time during the term of this agreement, State Parks shall need the Licensed Premises for any use necessary or convenient to the performance of its public purposes, State Parks may terminate this agreement by giving the City and Licensee thirty (30) days' notice in writing of intention to do so, and upon the giving of such notice, this agreement and its terms shall terminate, expire, and come to an end on the date fixed in such notice, as if the date were the date originally fixed in this agreement for termination or expiration. In such event, the City may recover any fences and dog park amenities installed by it on the Licensed Premises provided that the City does so within fifteen days after the end of this agreement and repairs all damage caused by such removal.

Section 9. Termination

- (a) If Licensee is no longer able to perform its obligations under this agreement, Licensee may withdraw from this agreement by giving the other parties thirty (30) days' notice in writing setting forth the reasons for its inability to perform.
- (b) The City may withdraw from this agreement by giving the other parties to the agreement thirty (30) days' notice in writing.
- (c) If Licensee or the City violates any applicable statute, law, rule or regulation or does not comply with the terms and conditions of this agreement, State Parks may terminate this agreement as between the violating party and the remaining parties by giving the City and Licensee ten (10) days' notice in writing of its intention to do so if the violation is not cured. Except as provided for in paragraph (d) and (e) of this Section, the removal of the violating party will not alter the relationship between obligations of the remaining parties to this agreement.

(d) In the event of Licensee's withdrawal under paragraph (a) or removal under paragraph (c), the City may assume the obligations of the Licensee under this agreement in addition to its existing obligations by giving State Parks written notice of its intention to do so prior to the effective date of Licensee's withdrawal or removal. If the City is no longer a party to this agreement or the City does not affirmatively assume the obligations of the Licensee as provided in this paragraph, upon the effective date of Licensee's withdrawal or removal, this agreement will terminate as if it were the date originally set in this agreement for expiration.

(e) In the event of the City's withdrawal under paragraph (b) or removal under paragraph (c), the Licensee shall assume the obligations of the City in addition to its existing obligations. If the Licensee is no longer a party to this agreement, then upon the effective date of the City's withdrawal or removal, this agreement will terminate as if it were the date originally set in this agreement for expiration.

Section 10. Surrender

Upon the cessation of this agreement, whether by expiration, revocation, or termination each of the City and Licensee shall (a) remove its personal property, and repair all damage caused by such removal, unless State Parks has consented in writing to any such personal property being safely abandoned in place; and (b) yield and deliver peaceably to State Parks possession of the Licensed Premises promptly and as good condition as when received, reasonable wear and tear and loss from casualty excepted. State Parks may take immediate physical possession of the Licensed Premises without notice to the City or to Licensee and without making application to the courts to dispossess or otherwise remove the City or Licensee therefrom.

Signature Page Follows

In witness whereof, the parties are signing this Amendment on the date stated in the introductory clause.

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By: _____

Name:

Title:

Federal EIN:

Acknowledgement

STATE OF _____)
) SS:
COUNTY OF _____)

On this __ day of _____ in the year 20__, before me, the undersigned a notary public in and for said state, personally appeared _____, personally known, to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is described within the instrument and acknowledged to me that he/she executed the same in his/her capacity as the _____ of _____, and that by his/her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public

City of Niagara Falls

By: _____

Name:

Title:

Federal EIN:

Acknowledgement

STATE OF _____)
) SS:
COUNTY OF _____)

On this __ day of _____ in the year 20__, before me, the undersigned a notary public in and for said state, personally appeared _____, personally known, to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is described within the instrument and acknowledged to me that he/she executed the same in his/her capacity as the _____ of _____, and that by his/her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public

State of New York, Office of Parks, Recreation and Historic Preservation

Recommendation of Regional Director: _____
Mark Mistretta, Niagara Region

By: _____
Robert W. Hiltbrand, Executive Deputy Commissioner

Attachments Follow

Attachment A

DESCRIPTION OF THE LICENSED PREMISES

STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

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

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

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

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

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or

entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract

is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall

consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

law will be the responsibility of the contractor to establish to meet with the approval of the State.

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

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

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

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

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

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

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

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

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

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

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

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

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

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

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

employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

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

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

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

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

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule,

or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

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

