

APPENDIX A

STANDARD CLAUSES FOR SCHUYLER COUNTY CONTRACTS

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

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**STANDARD CLAUSES FOR SCHUYLER COUNTY
CONTRACTS**

The parties to the attached contract, license, lease, amendment, renewal 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 County of Schuyler ("the County"), whether a contractor, vendor, licensor, licensee, lessor, lessee or any other party):

1. **RELATIONSHIP OF PARTIES.** Contractor shall have the status of an independent contractor, and in accordance with such status, agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out as, nor claim that any of its officers or employees are officers or employees of the County by reason of this Agreement. Contractor further agrees that it will not make against the County any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.
2. **EXECUTORY CLAUSE.** (A) **All Contracts.** In accordance with § 362 of the County Law, the County shall have no liability under this contract to Contractor or to anyone else beyond funds appropriated and available for this contract. (B) **Certain Installment Purchase Contracts.** Further, in the case of an installment purchase contract, pursuant to General Municipal Law § 109-b, any such installment purchase contract is not a general obligation of the County. Neither the full faith and credit nor the taxing power of the County of Schuyler are pledged to the payment of any amount due or to become due under such installment purchase contract. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract. Further, no liability on account thereof shall be incurred by the state of New York municipal bond bank agency beyond the amount of such monies. It is understood that neither this contract nor any representation by any employee or officer of such agency creates any legal or moral obligation to appropriate or make state monies available for the purpose of the contract.
3. **EXTENSIONS, RENEWALS, MODIFICATIONS.** Extensions or renewals to the Agreement or any modification including new products, terms, or price changes to the Agreement shall be submitted by the Contractor to the County for approval by the County Legislature of the County in order to be effective. No provision of a contract which states that the term of the contract shall be deemed renewed for a specified additional period shall be effective against the County, absent a subsequent resolution of the County legislature, specifically authorizing such renewal.
4. **NON-ASSIGNMENT CLAUSE.** In accordance with § 109 of the General Municipal Law, this contract may not be assigned by Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so without such consent are null and void.
5. **INSURANCE AND INDEMNIFICATION, HOLD HARMLESS.** (A) **Insurance.** (i) (a) Contractor covenants and agrees to maintain in full force and effect during the term of this Agreement, and any subsequent term, comprehensive insurance in form, term and content satisfactory to the annexed standards of the County, which are incorporated herein (*Appendix B: County Insurance Requirements For Contractors*) and, to prove as evidence of such compliance, insurance certificate(s) which shall be annexed to and made part of this Agreement. (b) The applicable Category of insurance requirements shall be stated in the face sheet of the contract and/or the Bid documents and/or the response to a Request for Quotes/Proposals. (c) Said certificate(s) shall be annexed hereto prior to or at the time of execution of this Agreement by the County. (d) Contractor acknowledges that failure to obtain or maintain such insurance on behalf of the County constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the municipality. The County shall, if it deems it necessary, have the right to ask for additional certification at different points throughout the life of the contract. (B) **Indemnification, Hold Harmless.** Notwithstanding the limits of any policy of insurance provided or maintained by Contractor, Contractor shall defend, indemnify and hold harmless the County of Schuyler and its officers, employees and agents from all claims, actions, suits, liabilities, damages, awards, costs and expenses (including, without limitation, attorneys' fees) of every nature and description arising out of or related to the services provided by Contractor under this Agreement and arising out of or caused by any act, omission, breach or negligence of Contractor or its officers, employees, volunteers, or agents. Contractor's duties and obligations pursuant to this paragraph shall survive the termination or expiration of this Agreement.
6. **WORKERS' COMPENSATION BENEFITS.** This contract shall be void and of no force and effect unless 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 (WCL). Contractor understands and agrees that pursuant to WCL § 57 (workers' compensation requirements), Contractor must

provide one of the following forms to the government entity issuing the permit or entering into a contract: (A) Form CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage; (B) Form C-105.2, Certificate of Workers' Compensation Insurance; or (C) Form SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Worker's Compensation Group Self-Insurance. Pursuant to WCL § 220(8) (disability benefits requirements), Contractor must provide one of the following forms to the entity issuing the permit or entering into a contract: (A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage (see above); (B) DB-120.1, Certificate of Disability Benefits Insurance; or (C) DB-155, Certificate of Disability Benefits Self-Insurance. (In the case of NYS Agencies acceptable proof consists of a letter from the NYS Department of Civil Service indicating the applicant is a New York State government agency covered for workers' compensation). Contractor acknowledges and agrees that, pursuant to the New York State Workers' Compensation Board, ACORD forms are not acceptable proof of such coverage.

7. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Art. 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, 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 § 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 § 230 of the Labor Law, then, in accordance with § 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 § 220-e or § 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent

violation. It is the sole responsibility of Contractor to determine if Contractor is subject to this contract provision and to ensure compliance with same.

8. **COMPLIANCE WITH ANTI-SEXUAL HARASSMENT LAWS.** As a condition of entering into this contract, Contractor affirms, under penalty of perjury, that Contractor has implemented a written workplace policy addressing sexual harassment prevention and that it provides annual training for all its employees, pursuant to the requirements of Labor Law § 201-g and other applicable statutes, regulations and case law.
9. **WAGE AND HOURS PROVISIONS FOR CERTAIN CONTRACTS.** If this is a public work contract covered by Art. 8 of the Labor Law or a building service contract covered by Art. 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 Art. 8 of the Labor Law, Contractor understands and agrees that the filing of payrolls in a manner consistent with Subd. 3-a of § 220 of the Labor Law shall be a condition precedent to payment by the County of any State approved sums due and owing for work done upon the project. It is the sole responsibility of Contractor to determine if Contractor is subject to this contract provision and to ensure compliance with same.
10. **SET-OFF RIGHTS.** The County shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold for the purposes of set-off any moneys due to Contractor under this contract up to any amounts due and owing to the County 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 County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The County 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 County agency, its representatives, or the County Treasurer.
11. **RECORDS.** 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 County Legislature, County Treasurer 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 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 County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under § 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely inform an appropriate County 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 County's right to discovery in any pending or future litigation.

12. **IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

(A) Pursuant to Tax Law § 5, Contractor understands and agrees that, notwithstanding any other provision of law, the County shall, at the time the County contracts to purchase or purchases goods or services or leases real or personal property from any person, require that each such person provide to the County such person's federal social security account number or federal employer identification number, or both such numbers when such person has both such numbers, or, where such person does not have such number or numbers, the reason or reasons why such person does not have such number or numbers. Such numbers or reasons shall be obtained by the County as part of the administration of the taxes administered by the New York State Tax Commissioner for establishing the identification of persons affected by such taxes. (B) Contractor further understands and agrees that, notwithstanding any other provision of law, the County shall, upon request of the commissioner, furnish to the commissioner the following information with respect to each person covered by this section: (1) business name or the name under which the applicant for a license or licensee will be licensed or is licensed; (2) business address or whatever type of address the County requires the applicant for a license or the licensee to furnish to it; and (3) federal social security account number or federal employer identification number, or both such numbers where such person has both such numbers, or the reason or reasons, furnished by such person, why such person does not have such number or numbers. Notwithstanding Art. 6 of the Public Officers Law or any other provision of law, the report to be furnished by the County to the commissioner pursuant to this section shall not be open to the public for inspection. (C) For the purposes of this section, "Person" shall mean an individual, partnership,

limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing. However, such term shall not include any public corporation, corporation formed other than for profit or unincorporated not-for-profit entity, except such term shall include an education corporation of the type dealt with in § 221 of the Education Law, an education corporation subject to Art. 101 of the Education Law and a cooperative corporation.

13. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.**

Contractor certifies and warrants that any and all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of § 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 subd. (including the County) or public benefit corporation. 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. Except as might be specifically authorized by State Finance Law § 165, any bid, proposal or other response to a solicitation for bid or proposal which proposes or calls for the use of any tropical hardwood or wood product in performance of the contract shall be deemed non-responsive.

14. **COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.**

In the event Contractor conducts business in New York state, and owns or licenses computerized data which includes private information, Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa) as applicable.

15. **NON-COLLUSIVE BIDDING CERTIFICATION FOR CERTAIN CONTRACTS.**

In accordance with General Municipal Law § 103-d(1), if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: (a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief: (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of

- restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
16. **IRAN DIVESTMENT ACT REQUIREMENTS FOR CERTAIN CONTRACTS.** In accordance with General Municipal Law § 103-g, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of Subd. 3 of § 165-a of the State Finance Law.
17. **HIPAA REQUIREMENTS FOR CERTAIN CONTRACTS.** In the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Agreement, a “Business Associate Agreement” (*Appendix C: Business Associate Agreement*), shall be attached to and incorporated by reference in the contract, in a form and content approved by the County and shall apply in the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Agreement by the party signing this Agreement as Business Associate, and pursuant to which Business Associate may be considered a “business associate” of the County as such term is defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) including all pertinent regulations issued by the U.S. Dept. of Health and Human Services, as amended.
18. **PROMPT AUDITING OF VOUCHERS AND LATE PAYMENT PROVISIONS.** Consistent with accepted business practices and with sound principles of fiscal management, the County shall audit vouchers and make payments expeditiously and subject to proper and reasonable financial oversight activities designed to ensure that the County receives the quality of goods and services to which it is entitled and to ensure that public funds are spent in a prudent and responsible manner. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by General Municipal Law § 3-a and General Municipal Law Art. 5-a, to the extent required by law.
19. **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.
20. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise. Pursuant to Civil Practice Law and Rules 504(1), the place of trial of all actions related to this contract by or against the County or any of its officers, boards or departments shall be in such county.
21. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily directed), but must, instead, be heard in a court of competent jurisdiction of the State of New York.
22. **GIVING OF NOTICES.** Any notice, request, or other communication required to be given pursuant to the provisions of this agreement shall be in writing and shall be deemed to have been given when delivered in person or five days after being deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, and addressed to the address listed on the face sheet of this contract. The address of either party to this agreement may be changed by notice in writing to the other party served in accordance with this provision.
23. **COUNTY ATTORNEY'S APPROVAL.** Contractor understands and agrees that the Schuyler County Attorney's office may approve and make or require modifications, other than price and dates, prior to execution by the County to ensure compliance with applicable federal, state and local laws and with all provisions of the county's contract policy manual and insurance standards.
24. **DESCRIPTIVE HEADINGS FOR CONVENIENCE ONLY.** Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Contract.
25. **ACCURACY OF CONTRACTOR REPRESENTATIONS.** Contractor understands, acknowledges and agrees that this Contract will be relied upon by, and filed with, registered or recorded in or otherwise become a part of the records of, the County of Schuyler. Contractor affirms, under penalty of perjury, to the best of his/her/its knowledge, information and belief, that the representations, agreements and promises made by Contractor in this Contract, and all attachments thereto, including any and all exhibits or appendices, is true, complete and accurate.