

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the “Agreement”), effective April 2, 2025, is between the COUNTY OF ONEIDA, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501 (hereinafter referred to as the “Owner”), and C & S Engineers, Inc., a domestic business corporation, with principal offices located at 499 Col. Eileen Collins Boulevard, Syracuse, New York 13212 (hereinafter referred to “C&S”).

WITNESSETH

WHEREAS, the Owner requires certain experience and knowledge with regard to certain projects at Griffiss International Airport; and

WHEREAS, C&S possesses the requisite skills, knowledge, and experience to provide such services, as set forth in said terms below; and

WHEREAS, the Owner solicited bids with respect to the services to be provided pursuant to this agreement; and

WHEREAS, C&S was the successful bidder; and

WHEREAS, the Owner deems it beneficial to enter into this Agreement with C&S to provide aforementioned services; and

NOW, THEREFORE, in consideration of the mutual promises made herein, the parties agree as follows:

1. **Scope of Services.** C&S shall provide the services set forth in the proposal annexed hereto as Exhibit A and made a part hereof.
2. **Term.** This Agreement shall commence on April 2, 2025 and continue until December 31, 2025.
3. **Payment.** The Owner shall pay C&S a lump sum of \$15,320.00 (Fifteen Thousand Three Hundred Twenty Dollars) for the Services provided by C&S pursuant to this Agreement. C&S shall be paid upon presentation to the Oneida County Comptroller of a properly completed County voucher.
4. **Indemnification.** To the fullest extent permitted by applicable law, C&S shall indemnify and hold harmless, and at the Owner’s option, defend Oneida County and/or its officers, directors, members, agents, employees, contractors and other representatives, from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, “Damages”), incurred by the Owner caused by any negligent act or omission, or intentional misconduct of C&S, its officers, agents,

employees (including C&S's authorized personnel) arising out of or in connection with the exercise by C&S or any of C&S's authorized personnel of the rights and privileges granted by or pursuant to this Agreement, except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of the Owner.

5. Performance of Services.

- a. C&S has the qualifications, the specialized skills, the experience, and the ability to properly perform the Services. C&S shall use its best efforts to perform the Services such that the results are satisfactory to the Owner. C&S shall be solely responsible for determining the location, method, details, and means of performing the Service.
- b. C&S acknowledges and agrees that it has no authority to enter into contracts that bind the Owner or create obligations on the part of the Owner without the prior written authorization of the Owner.

6. Independent Contractor.

- a. It is expressly agreed that the relationship of C&S to the Owner shall be that of an independent contractor. C&S's employees shall not be considered employees of the Owner for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. C&S, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself in accordance with such status, that its employees will neither hold themselves out as, nor claim to be, officers or employees of the Owner by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Owner.
- b. C&S is free to undertake other work arrangements during the Term of this Agreement and may continue to make services available to the public.
- c. C&S shall be solely responsible for applicable taxes for all compensation paid to it under this Agreement, and for compliance with all applicable labor and employment requirements. The Owner shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA).
- d. C&S shall indemnify and hold the Owner harmless from all loss or liability incurred by the Owner as a result of the Owner not making such payments or withholdings.
- e. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges C&S's independent contractor status, it is agreed that both the Owner and C&S shall have the right to participate in any conference, discussion, or negotiations with the

governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.

- f. C&S agrees to comply with federal and state laws as supplemented in the Department of Labor regulations and any other regulations of the federal and state entities relating to such employment and Civil Rights requirements.

7. **Expenses.** C&S is solely responsible for paying all of its business expenses related to furnishing the Services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services, or other general operating expenses.

8. **Training.** C&S's employees shall not be required to attend or undergo any training by the Owner.

9. **Confidentiality.** C&S agrees to maintain in confidence and not disclose to any person or entity, without Owner's prior written consent, any confidential information, knowledge or data relating to the products, processes, or operations of Owner.

10. **Recordkeeping.** C&S shall keep and maintain all records concerning the Services and upon termination of this Agreement shall return all such records to Owner.

11. **Non-Assignment and Subcontracting.** C&S shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other entity without the prior written consent of Owner. C&S shall not subcontract for the performance of the Services without the prior written consent of Owner.

12. **Advice of Counsel.** Each party acknowledges that, in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel and has read and understands all of the terms and provisions of this Agreement.

13. **Notices.** All notices required herein shall be served on or mailed to the parties at the addresses indicated above.

14. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of New York without regard to its conflicts of laws principles. Any action or proceeding relating to this Agreement must be brought in a court of competent jurisdiction located in Oneida County, New York.

15. **Non-Waiver.** No provision of this Agreement shall be deemed to have been waived by either party, unless such waiver shall be set forth in a written instrument executed by such party. Any waiver by either of the parties of any of the provisions of this Agreement shall not imply preceding or subsequent waiver of that or any other provision, unless explicitly stated otherwise.

16. **Severability.** If any provision of this Agreement or any part thereof is or becomes void or unenforceable by force or operation of law, the parties agree that the Agreement shall be reformed to replace the stricken provision or part thereof with a valid and enforceable provision

that comes as close as possible to expressing the intention of the stricken provision. Further, the parties agree that all other provisions shall remain valid and enforceable.

17. **Entire Agreement.** The terms of this Agreement, including Exhibit A (Proposal), Exhibit B (Terms and Conditions), and the Oneida County Standard Contract Clauses Addendum, which are attached hereto, constitute the entire understanding and agreement of the parties and cancel and supersede all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement. No waiver, alteration, or modification of and provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF the parties have executed this Agreement effective the day and year first above written.

ONEIDA COUNTY:

C & S Engineers, Inc.:

By: _____
Anthony J. Picente, Jr.
County Executive

B. Fusco
By: Ben Fusco
Name: _____
Title:

Date: _____

Date: 4/21/25

Approved

Amanda L. Cortese-Kolasz, Esq.
County Attorney

April 2, 2025

Edward Arcuri
Commissioner of Aviation
Griffiss International Airport
660 Hangar Rd Suite 223
Rome, NY 13441

Re: 2025 Griffiss Controls Service

Dear Mr. Arcuri:

C&S Operations, Inc. (C&S) is pleased to submit this proposal to render services to Griffiss International Airport (Owner) in connection with 2025 Griffiss Controls Service.

Scope of Services:

C&S's Scope of Services are as follows:

1. Update all JACE and Supervisor software licensing through 12/31/2025.
2. Maintain remote access to the control system including remote alarm notifications.
3. Provide 2 hrs. per month of remote technical support to Griffiss staff.

EXCLUSIONS / ASSUMPTIONS:

1. Remote technical support will be provided to Griffiss staff only, not tenants of Oneida county.
2. No on-site work is included as part of this proposal.
3. C&S will not monitor, or respond to any system alarms.
4. All work will be done during normal work hours, 8AM –5PM, Monday – Friday, excluding holidays.
5. Control wiring will be concealed in walls and ceilings wherever necessary, however surface mount raceways and open-air wiring with bridle rings/j-hooks will be used wherever possible.
6. Prices quoted in this document will be honored for a period of 30 days.
7. Sales or use tax not included where applicable.

SCHEDULE:

The period of service will be from **4/2/25** through **12/31/25**.

Fee:

We propose to provide the services associated with project scopes outlined above for the lump sum fees listed in the schedule below.

| C&S Building Automation Scope of Work | Fee |
|--|----------|
| 2025 Controls service as defined above | \$15,320 |

If additional work is requested or the Scope of Services change, this amount may require revision. However, no additional amount will be expended without your prior authorization.

This proposal, together with attached Exhibit A constitutes the entire agreement between us with respect to its subject matter and supersedes all prior and contemporaneous written or oral understandings with respect to that subject matter. This proposal may be amended, supplemented, modified, or canceled only by a written instrument signed by both parties.

If this proposal, together with its governing Terms and Conditions, description of services to be rendered and fee schedule set forth herein meet with your approval, kindly acknowledge the same on the line indicated below and return to the undersigned.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

B. Fusco

Ben Fusco
Operations Manager
C&S Operations, Inc.

Accepted this _____ day of
_____, 2025.

By: _____
Authorized Representative

EXHIBIT "B"

TERMS & CONDITIONS

These Terms and Conditions govern the performance by or through C&S of the Scope of Services set forth in the Exhibit A of this Agreement. Capitalized terms used herein, unless otherwise defined, shall have the meanings ascribed thereto in the letter and/or scope of services. OWNER and C&S agree as follows:

SECTION 1 - WORK OF C&S

- 1.1 C&S shall provide for OWNER the work described in detail in "Scope of Work and Compensation Letter", which is attached hereto as Exhibit A, incorporated herein, and made a part hereof (the "Work"). C&S shall, at its own expense, obtain all data and information necessary (other than that referred to in Section 3 of this Exhibit) for the performance of the Work. C&S is responsible to see that the Work conforms to the regulations, codes, and special requirements applicable to the Project and the place where the Project is located.
- 1.2 Unless otherwise provided elsewhere in this Agreement, all materials and equipment furnished under this Agreement will be of good quality and new unless this Agreement permits otherwise. All Work will conform to the requirements of this Agreement and will be free from defects, except for those inherent in the quality of the Work that this Agreement requires or permits. Work, materials, or equipment not conforming to these requirements may be considered defective.
- 1.3 C&S warrants all work, equipment, materials and workmanship to be in accordance with this Agreement, proper and workmanlike, for a period of one (1) year from the date of substantial completion (as described in section 4.2). If, prior to the date of substantial completion and within one (1) year after the date of substantial completion of the Work, any portion of the Work is found to be not in conformance with this Agreement ("Defective Work"), OWNER shall promptly notify C&S in writing. Unless OWNER provides written acceptance of the condition, C&S shall promptly correct any Defective Work for which it is responsible at its own cost and time. C&S'S warranty excludes remedies for damage or defect caused by abuse; alterations to the Work not executed by C&S; improper or insufficient maintenance by or on behalf of OWNER; improper operation by or on behalf of OWNER; or normal wear and tear and normal usage. If required by OWNER, C&S shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Any additional warranties beyond those outlined in this paragraph shall be identified and agreed to prior to executing this Agreement. With regard to damage or loss attributable to the acts or omissions of the OWNER or Others and not to the C&S, OWNER may either (a) promptly remedy the damage or loss or (b) accept the damage or loss. If C&S incurs additional costs or is delayed due to such loss or damage, C&S shall be entitled to an equitable adjustment in the Contract Price or Contract Time.
- 1.4 C&S may request and/or OWNER may order changes in the Work hereunder or the timing and sequencing of performance of the Work that impacts the compensation or the schedule as set forth in Exhibit "A". All such changes in the Work shall be formalized in a change order. If such a change in the contract time or contract price is required, OWNER and C&S shall negotiate in good faith and shall conclude these negotiations as

expeditiously as possible. Acceptance of the change order and any adjustment in the contract price and/or contract time shall not be unreasonably withheld. C&S shall not be obligated to perform changed work until a change order has been executed.

- 1.5 In the event that OWNER elects to perform work at the worksite directly or by others, C&S and OWNER shall coordinate the activities of all forces at the worksite and agree upon fair and reasonable schedules and operation procedures for worksite activities. OWNER shall require each separate C&S to cooperate with C&S and assist with the coordination of activities and the review of construction schedules and operations. The contract price or contract time shall be equitably adjusted, as mutually agreed by the parties, for changes made necessary by the coordination of construction activities, and the schedule of the Work shall be revised accordingly. OWNER and others shall adhere to the revised construction schedule until it may be subsequently revised.

1.6 RESPONSIBILITY FOR PERFORMANCE

1.6.1 In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, C&S shall examine and compare the drawings and specifications with information furnished by the OWNER pursuant to Section 3, relevant field measurements made by C&S and any visible conditions at the worksite affecting the Work.

1.6.2 If in the course of the performance of the obligations in Subparagraph 1.6.1, C&S discovers any errors, omissions or inconsistencies in the Contract Documents, C&S shall promptly report them to OWNER. It is recognized, however, that C&S is not acting in the capacity of a licensed design professional, and that C&S'S examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions or inconsistencies or to ascertain compliance with applicable laws, building codes or regulations. Following receipt of written notice from C&S of defects, OWNER shall promptly inform C&S what action, if any, C&S shall take with regard to the defects.

1.6.3 C&S shall have no liability for errors, omissions or inconsistencies discovered under paragraphs 1.6.1 and 1.6.2 unless C&S knowingly fails to report a recognized problem to OWNER.

1.6.4 C&S may be entitled to additional costs or time because of clarifications or instructions arising out of C&S'S reports described in paragraphs 1.6.1, 1.6.2, and 1.6.3.

1.7 TESTS AND INSPECTIONS

1.7.1 C&S shall schedule all required tests, approvals and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project. C&S shall give proper notice to all required parties of such tests, approvals and inspections. OWNER shall bear all expenses associated with tests, inspections and approvals required by the Contract Documents, which, unless otherwise agreed to, shall be conducted by an independent testing laboratory or entity retained by OWNER. Unless otherwise required by the Contract Documents, required certificates of testing, approval or inspection shall be secured by C&S and promptly delivered to OWNER.

EXHIBIT "B"

TERMS & CONDITIONS

1.7.2 If OWNER or appropriate authorities determine that tests, inspections or approvals in addition to those required by the Contract Documents will be necessary, C&S shall arrange for the procedures and give timely notice to the OWNER. Costs of the additional tests, inspections or approvals are at the OWNER's expense.

1.8 CORRECTION OF COVERED WORK

1.8.1 On request of the OWNER, Work that has been covered without a requirement that it be inspected prior to being covered may be uncovered for OWNER's inspection. OWNER shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents, or if the defective condition was caused by OWNER or others. If the uncovered Work proves to be defective, C&S shall pay the costs of uncovering and replacement.

1.8.2 If contrary to specific requirements in the Contract Documents or contrary to a specific request from the OWNER, a portion of the Work is covered, OWNER, by written request, may require C&S to uncover the Work for the OWNER's observation. In this circumstance the Work shall be replaced at C&S's expense.

SECTION 2 – CONDITIONS AT PROJECT WORKSITE

2.1 DIFFERING SITE CONDITIONS

If the conditions at the Project worksite are (a) subsurface or other physical conditions which differ materially from those indicated in this Agreement, or (b) unusual or unknown physical conditions which differ materially from conditions ordinarily encountered and generally recognized as inherent in Work provided for in this Agreement, C&S shall stop the Work and give immediate written notice of the condition to OWNER. C&S shall not be required to perform any Work relating the unknown condition without the written mutual agreement of the parties. Any change in the contract price and/or contract time as a result of the unknown condition shall be made by change order as set forth in Subsection 1.4.

2.2 HAZARDOUS MATERIAL

2.2.1 A "Hazardous Material" is any substance identified as hazardous under any federal, state, or local law or regulation or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal, and/or cleanup. C&S shall not be obligated to commence or continue the Work until any Hazardous Material discovered at the Project worksite has been removed or rendered or determined to be harmless, as certified by an independent testing laboratory and approved by the appropriate government agency. If after the commencement of the Work, Hazardous Material is discovered at the Worksite, C&S shall be entitled to immediately stop Work in the affected area. C&S shall report the condition to the OWNER, the Architect or Engineer, and, if required, the government agency with jurisdiction.

2.2.2 OWNER shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of OWNER, and shall be performed in a manner minimizing any adverse effects upon the Work. C&S shall resume Work in the area

affected by any Hazardous Material only upon written agreement between the parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

2.2.3 If C&S incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, C&S shall be entitled to an equitable adjustment in the contract price or the contract time.

2.2.4 To the extent not caused by the negligent acts or omissions of C&S, its SubC&Ss and Sub-subC&Ss, and the agents, officers, directors, and employees of each of them, OWNER shall defend, indemnify and hold harmless the C&S, its SubC&Ss and Sub-subC&Ss, and the agents, officers, directors and employees of each of them, from and against all claims, damages, losses, costs and expenses, including but not limited to reasonable attorneys' fees, costs and expenses incurred in connection with any dispute resolution process, arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

SECTION 3 – OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the Work of C&S under this Agreement:

3.1 Provide criteria and information as to OWNER'S requirements for the Project and the Work, and notify C&S of construction standards which OWNER will require to be followed or incorporated in the Work.

3.2 Place at C&S'S disposal reports, drawings, specifications, schedules, and other information which were prepared by or for OWNER or by others which are available to OWNER and which OWNER considers pertinent to C&S'S responsibilities hereunder, on all of which C&S may rely in performing the Work (except as may be specifically noted otherwise in writing).

3.3 Provide information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, data or drawings depicting existing conditions, subsurface conditions and environmental studies, reports and investigations.

3.4 Provide tests, inspections and other reports dealing with environmental matters, Hazardous Material and other existing conditions, including structural, mechanical and chemical tests, required by the contract documents or by law.

3.5 Provide any other information or services requested in writing by C&S which are relevant to C&S's performance of the Work.

3.6 Except for those required of C&S, as set forth specifically in the letter part of this Agreement or Exhibit "A," secure and pay for all permits, approvals, easements, assessments, and fees required for the development, construction, use, or occupancy of real property, structures, or facilities subject to the Work.

3.7 Arrange for access to, and make all provisions for C&S and any necessary equipment to enter upon, public and private property as may be required for C&S to perform the Work.

EXHIBIT "B"

TERMS & CONDITIONS

- 3.8 Give prompt written notice to C&S whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of C&S'S Work, or any defect in the work of other C&S(s) affecting the C&S'S Work.
- 3.9 Advise C&S of the identity of other independent professional associates, C&Ss, and suppliers participating in the Project and the general scope of their services.
- 3.10 At the request of C&S, provide evidence of Project financing and notify C&S of any material change in Project financing. Evidence of financing after a request has been made shall be a condition precedent to C&S'S commencing and continuing the Work.
- 3.11 OWNER shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay.
- 3.12 The information and services to be provided by OWNER under this Section 3 will be without cost to C&S and, except to the extent C&S knows of any inaccuracy, C&S is entitled to rely on information furnished hereunder. Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction and all other pertinent site conditions. Adjacent property descriptions shall include structures, streets, sidewalks, alleys, and other features relevant to the Work. Utility details shall include available services, lines at the worksite and adjacent thereto and connection points. The information shall include public and private information, subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used by C&S in laying out the Work.
- 3.13 Other responsibilities of OWNER which pertain to the Work, if any, are set forth in the letter part of this Agreement or Exhibit "A".

SECTION 4 - PERIOD OF SERVICE

- 4.1 C&S recognizes that the services of others involved in the Project are dependent upon the timely performance of C&S'S Work. The schedule and milestone dates will be established between the OWNER and C&S as part of the project initiation phase.
- 4.2 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with this Agreement so that the OWNER can occupy or utilize the Work for its intended use. When the C&S believes Substantial Completion of the Work or a designated portion thereof is achieved, C&S shall establish the date of Substantial Completion, notify OWNER in writing and shall provide to the OWNER a listing of those matters yet to be finished. OWNER may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) appropriate public authorities authorize the occupancy or use. Such partial occupancy or use shall constitute Substantial Completion of that portion of the Work.

- 4.3 When C&S believes that the work is finally complete C&S shall notify OWNER in writing. When the OWNER confirms that the Work is complete, the OWNER will issue a letter establishing the Final Completion Date for the work or portion thereof.

SECTION 5 - PAYMENTS TO C&S

- 5.1 **Method of Compensation** - OWNER shall pay C&S for Work rendered under this Agreement as described in Exhibit "A".

5.2 Times of Payment

5.2.1 C&S shall submit monthly statements for Work performed. When compensation is on the basis of a lump sum, the statements will be based upon C&S's estimate of the proportion of the Work actually completed at the time of billing. If OWNER objects to any statement submitted by C&S, OWNER shall so advise C&S in writing giving reasons therefor within fourteen (14) days of receipt of such statement. If no such objection is made, the statement will be considered acceptable by OWNER.

5.2.2 C&S shall bill OWNER on account of C&S's Work and OWNER shall pay C&S no later than twenty (25) days of the time C&S has submitted a complete and accurate payment application. Payment applications shall include payment requests on account of properly authorized change orders.

5.2.3 Final payment of the balance of the contract price shall be made to the C&S within twenty-five (25) calendar days after C&S has submitted complete and accurate application for final payment and a Certificate of Final Completion has been executed by OWNER and C&S.

- 5.3 **Stored Materials And Equipment**- Unless otherwise provided in the Contract Documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on submission by the C&S of bills of sale and proof of required insurance, or such other procedures satisfactory to OWNER to establish the proper valuation of the stored materials and equipment, OWNER's title to such materials and equipment, and to otherwise protect OWNER's interests therein, including transportation to the site.

5.4 Reproductions and Information

5.4.1 C&S shall, at C&S'S expense, furnish OWNER a copy of all information required by OWNER for review of C&S'S Work while in progress.

5.4.2 OWNER shall, at OWNER'S expense, furnish information related to C&S'S Work and that of others assigned to the Project as may be required for the orderly performance of C&S'S Work.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Termination

6.1.1 The obligation to provide further Work under this Agreement may be terminated:

EXHIBIT "B" TERMS & CONDITIONS

A. For cause,
1. By either party upon thirty (30) days' prior written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.

2. By C&S:
i. upon seven (7) days' prior written notice if C&S believes that C&S is being requested by OWNER to furnish or perform Work contrary to C&S'S responsibilities as a licensed C&S; or

ii. upon seven (7) days' written notice if C&S'S Work is delayed or suspended for more than ninety (90) days for reasons beyond C&S'S control.

C&S shall have no liability to OWNER on account of such termination.

Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Subsection 6.1.1(A)(1) if the party receiving such notice begins, within seven (7) days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than thirty (30) days of receipt of notice; provided, however, that if and to the extent that such substantial failure cannot be reasonably cured within such thirty (30) day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, sixty (60) days after the date of receipt of the notice.

B. For convenience, by OWNER effective upon the receipt of notice by C&S.

6.1.2 The terminating party under Subsections 6.1.1(A) or 6.1.1(B) may set the effective date of termination at a time up to thirty (30) days later than otherwise provided to allow C&S time to demobilize personnel and equipment from the Project worksite; to complete tasks whose value would otherwise be lost; to prepare notes as to the status of completed and incomplete tasks, and to assemble Project materials in orderly files.

6.1.3 In the event of any termination, C&S will be paid for Work rendered to the date of termination.

6.2 Records

6.2.1 Fiscal records of C&S pertinent to C&S's compensation and payments under this Agreement will be kept in accordance with generally accepted accounting principles.

6.2.2 C&S shall maintain all records (fiscal and other) in legible form. A copy of these shall be made available to OWNER upon request at C&S's expense.

6.3 Insurance

6.3.1 Prior to the start of the Work hereunder, C&S shall procure and maintain in force Workers' Compensation and Employer's Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent C&Ss, products-completed operations, personal injury and advertising injury, contractual liability and broad form property damage. If requested, certificates indicating that such

insurance is in effect shall be submitted to OWNER by C&S.

6.3.2 C&S'S CGL and Business Auto Liability shall be written with at least the following limits of liability:

A. Workers Compensation at the statutorily required limits.

B. Commercial General Liability (CGL) with limits of Insurance not less than \$1,000,000 each occurrence and \$2,000,000 Annual Aggregate.

C. Business Auto Liability with limits of at least \$1,000,000 each accident.

6.3.3 Before the start of Work, the OWNER shall obtain and maintain until completion of the Project, Builder's Risk Insurance or its equivalent upon the entire Project for the full cost of replacement at the time of loss to cover all risks of physical loss except those specifically excluded by the policy. This insurance shall name C&S and its subC&Ss as additional insureds.

6.3.4 OWNER and C&S waive all rights against each other and their respective employees, agents, C&Ss, subC&Ss and sub-subC&Ss, and the Architect/Engineer for damages caused by risks covered by the property insurance except such rights as they may have to the proceeds of the insurance and such rights as C&S may have for the failure of the OWNER to obtain and maintain insurance in compliance with paragraph 6.3.3.

6.4 Controlling Law

This Agreement is to be governed by and interpreted pursuant to the laws of the State of New York.

6.5 Successors and Assigns

6.5.1 OWNER and C&S each is hereby bound, and the partners, successors, executors, administrators, assigns, and legal representatives of each are bound, to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations set forth in this Agreement.

6.5.2 Neither OWNER nor C&S shall assign, sublet, or transfer any rights or obligations under, or interest in this Agreement (including, without limitation, any moneys that may become due or moneys that are due), without receiving the prior written consent of the other, except as stated in Paragraph 6.5.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

6.5.3 Nothing in this Subsection 6.5 shall be construed to give any rights or benefits under this Agreement to anyone other than OWNER and C&S.

6.6 Waiver of Consequential Damages

To the fullest extent permitted by law, OWNER and C&S waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the project which is the subject of this Agreement.

EXHIBIT "B"

TERMS & CONDITIONS

SECTION 7 - SEVERABILITY

Any provision or part of this Agreement held by a court of law to be invalid or unenforceable under any law or regulation shall be deemed stricken, but all remaining provisions shall continue to be valid and binding upon OWNER and C&S, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

SECTION 8 - FORCE MAJEURE

Any delay in or failure of performance by any party to this Agreement shall not constitute a default under this Agreement giving rise to termination, nor give rise to any claim for damage, if and to the extent that such delay or failure is caused by occurrences or events beyond the control of the party affected, including, but not limited to, acts or omissions of the other party or the Architect/Engineer, changes in the Work or sequencing of the Work ordered by OWNER or arising from the decisions of the OWNER; transportation delays not reasonably foreseeable; acts of God; expropriation or confiscation of facilities by, or compliance with any order or request of, governmental authority affecting, to a degree not presently existing, the supply, availability, or use of personnel or equipment; flood; blizzard; labor unrest; riot; or any other cause the affected party is unable to prevent or foresee with reasonable diligence. A party who is prevented from performing for any reason shall immediately notify the other in writing of the reason for the nonperformance, the anticipated extent of any delay, and its efforts to minimize the extent of delay and resume performance under this Agreement. If any such delay continues for more than fifteen (15) consecutive days then the other party to this Agreement may terminate it in accordance with Section 6.

SECTION 9- EMERGENCIES

In an emergency, C&S shall act in a reasonable manner to prevent personal injury or property damage. C&S shall be entitled to a change in Contract Price and/or Contract Time as appropriate resulting from the actions of C&S in an emergency situation.

SECTION 10 - DISPUTE RESOLUTION

- 10.1 OWNER and C&S agree to negotiate in good faith for a period of thirty (30) days from the date of notice of disputes between them as to the execution, meaning of, or performance under the terms of this Agreement prior to exercising their right under Subsection 10.2 below. The thirty (30) day period may be extended upon mutual agreement of the parties.
- 10.2 If any dispute between OWNER and C&S cannot be resolved pursuant to Subsection 10.1, and only if mutually agreed by OWNER and C&S, said dispute and all unsettled claims, counterclaims and other matters in question between them arising out of or relating to the execution, meaning of, or performance under the terms of this Agreement or the breach thereof shall be submitted to mediation by a mediator, to be selected by the parties jointly, prior to one party initiating a legal action against the other, unless initiating mediation would irrevocably prejudice one of the parties. It is the intention of the parties that any agreement reached at mediation become

binding upon them. The cost of mediation shall be shared equally between the parties.

- 10.3 This Section 10 shall survive any termination or cancellation of this Agreement.

SECTION 11 – NOTICE

Any notice required to be given by one party to the other hereunder shall be in writing and shall be delivered personally; by overnight courier with proof of delivery; or by certified or registered first-class mail, postage pre-paid and return receipt requested, to the party to be notified at its address set forth below. Notice shall be deemed given upon receipt and failure or refusal to accept receipt shall be deemed to constitute receipt for purposes of this Agreement. Either party may change its address for notice purposes by giving notice to the other party in accordance with the terms of this Section 11.

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the “Contract”), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority’s service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority’s service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:
- Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

- 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

- ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County

available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

- ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal 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 County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKER'S COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal 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.

7. 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, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital 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, the 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 of the Labor Law, the 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. The 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 monies due hereunder for a second or subsequent violation.

8. 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 of the Labor Law, neither the 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 Articles, 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, the 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 County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. 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 Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or 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 County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, 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 Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, 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. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes 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. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) 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 County is mandatory. The principle 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 liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. 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 Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired 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 sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for 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 Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

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

The Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa).

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter “OGS”) website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the “use of tobacco” shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

20. COMPLIANCE WITH NEWYORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.