OFFICE OF THE ATTORNEY GENERAL (OAG)

Request for Proposals (RFP) for Architectural Signage and Wayfinding Design
RFP #17-015

Request for Proposals Number: 17-015	**Issued:** February 1, 2018
Project Address: 28 Liberty Street, New York, NY 10005	
Bid Description: Architectural Signage and Wayfinding Design	
Tentative Action/Date: Bidder(s) will be required to follow the timeline stated below. The Office of the Attorney General (OAG) reserves the right to modify the schedule at any time.	
Contract Period	To Be Determined Upon Final Award
All Prospective Bidders Must Submit Notification of their Intention to Bid by email to purchase@ag.ny.gov, with the subject line "Intent to Bid for RFP #17-015 – [Insert Vendor Name]"	
Intent to Bid Deadline	February 5, 2018 by 5:00 PM EST
Optional Site Visit	February 7, 2018 at 9:00 AM EST
Submission of Questions	February 9, 2018 by 5:00 PM EST
Issuance of Answers	February 12, 2018
RFP Due Date	February 15, 2018 by 12:00 PM EST
Anticipated Issuance of Tentative Award	February 16, 2018
In compliance with Procurement Lobbying Law, contacting anyone other than designated herein may result in rejection of Proposal. **Primary Designated Contact**: Karie E. King Contract Management Specialist Budget and Fiscal Management Bureau Office of the New York Attorney General State Capitol Albany, New York 12224-0341 Telephone: (518) 776-2128 E-Mail: purchase@ag.ny.gov	In the event the **Primary** designated contact is not available, the alternate designated contact is: Pamela A. Harrington Contract Management Specialist 2 Budget and Fiscal Management Bureau Office of the New York Attorney General State Capitol Albany, New York 12224-0341 Telephone: (518) 776-2143 E-Mail: purchase@ag.ny.gov
General Information	
Questions regarding this announcement shall be directed to the person on the cover page of this RFP via e-mail only and shall adhere to the above deadline. Verbal questions will NOT be accepted. According to the State's Procurement Lobbying Law, from the issuance of the RFP until the written notification of award, no bidder shall contact the OAG on any matter relating to its quotation, except for the question inquiry period and when responding to a request from the OAG designated person on the cover page of this RFP for clarification. Any effort to influence the OAG in its review of the quotations(s) or the award decision shall result in the rejection of the proposal. Receipt of these bid documents does not indicate that the OAG has pre-determined your company's qualifications to receive a contract award. Such determination will be based on OAG evaluation of your proposal submission. The State encourages vendors, regardless of size, to submit a bid in response to this bid solicitation and encourages NYS small businesses and/or certified minority/woman-owned business enterprises and/or service-disabled veteran owned businesses to bid. We look forward to the receipt of your proposal.	

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1. INTRODUCTION

1.1 Bid Overview

This is a Request for Proposals (RFP) issued by the NYS Office of the Attorney General (hereinafter referred to as "OAG") seeking proposals from experienced and qualified Signage Contractors to provide planning, design, fabrication, implementation, and installation services to develop a signage and wayfinding system for the OAG's New York City office space located in Downtown Manhattan.

The OAG New York City office has continuously occupied its current location in Downtown Manhattan at 120 Broadway since 1986. Beginning in April of 2018 the OAG New York City office will be moving into an adjacent Downtown Manhattan building at 28 Liberty. In the new space, the OAG will occupy approximately 340,000 rentable square feet on 10 floors, each floor containing multiple Bureaus. Major Divisions inside of the location include State Counsel, Economic Justice, Appeals & Opinions, Criminal Justice, and Social Justice. Additionally, the space contains secured areas unique to law enforcement functions and a significant amount of storage space for onsite active law case records.

Architectural Signage will be needed for approximately 540 offices, 675 workstations, and 190 miscellaneous rooms including, but not limited to, conference rooms, file rooms, pantries, IT closets, the Library, Wellness Rooms, etc. In addition, a wayfinding solution with signage and directories is required to guide employees and visitors at 28 Liberty. The OAG's intent is to award a contract to a single bidder. The OAG selected proposer will provide the following services: project management, design, fabrication, and installation. The signage and wayfinding strategy will lay the foundation for the project by defining specific project goals and identifying signage types and signage locations that best meet the needs of the OAG and convey its identity.

The following minimum requirements apply to this bid solicitation: The contractor must have at least five (5) years' experience providing planning, design, installation and oversight of signage and wayfinding systems for commercial, institutional, and/or public sector clients, preferably in New York City.

A response to the solicitation is an offer to contract with the OAG based on the terms and conditions contained therein. Bids do not become contracts until they are accepted by the OAG through issuance of a duly executed contract signed by both parties, and the New York State Office of the State Comptroller. The general terms and conditions in this solicitation, the applicable requirements and provisions of the RFP, and other provisions required by the OAG shall be included in any resulting contract. Upon final approval, a fully executed copy of the contact will be issued to the selected proposer.

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1.2 Agency Background

As head of the Office of the Attorney General (OAG), the Attorney General is both the "People's Lawyer" and the State's chief legal officer. The New York State Attorney General serves as one of the four statewide officials elected by popular vote.

The Attorney General serves as the chief guardian of the legal rights of the citizens of New York, its businesses and its natural resources. In his/her role as the State's chief legal counsel, the Attorney General is responsible for supervising the State government's legal affairs. The Attorney General not only advises the Executive branch of State government, but also prosecutes and defends all actions and proceedings on behalf of, and against, the State.

The OAG carries out a diverse array of litigation activities, which can be broken down into two primary categories: affirmative litigation and defensive litigation:

> The OAG's affirmative bureaus investigate and build cases against fraudulent activity or other unscrupulous actions, involving individuals residing in and/or businesses operating within the State of New York. In this instance, the OAG acts as the plaintiff, bringing suit, where appropriate, against bad actors. Sources of information for investigations occurring within the affirmative bureaus commonly come from the public in the form of tips and complaints.
>
> The OAG's defensive bureaus typically receive cases from the court system. The OAG is made aware of an actual or potential lawsuit in which the State, a State agency, or a State official/employee is named as a party in a lawsuit. In this instance, the OAG acts as the defendant, and defends the State, state agencies and state officials/employees against claims.

More information on OAG can be found on our public website (http://www.ag.ny.gov), as this site provides information on the organization as well as the wide range of resources to the public.

2. SCOPE OF WORK AND SERVICES

The following is an outline of the specific deliverables that are required as part of this project. The selected proposed shall render to the OAG such services as, but not limited to:

2.1 Phase 1: Planning

The first phase of the project should include a kickoff meeting and tour to allow the selected proposer a full inspection of the site in order to take accurate measurements and further define signage needs. Following the kickoff meeting, the selected proposer shall identify the strategy for the project. The strategy will lay the foundation for the project by defining project goals and timelines. The selected proposer shall develop a comprehensive signage system that incorporates/address the following:

- **2.1.1** Definition of specific wayfinding system goals and objectives;
- **2.1.2** Identification of signage locations;
- **2.1.3** Identification of the types of signage that will best serve the OAG;
- **2.1.4** Development of criteria for destination inclusion, signage grouping and hierarchy;
- **2.1.5** Development of recommended route plan and determine optimal placement of signs;
- **2.1.6** Development of destination list and determination of terminology (or abbreviations) necessary for each destination/attraction;
- **2.1.7** Inventory of required signage.

Following the kickoff meeting and informational meetings with the OAG Administrative Services Bureau, the selected proposer shall prepare a memorandum detailing the strategy and timeline for the project.

For reference information, please refer to the following Appendices:
Appendix III for 28 Liberty Floor Plans with notes; Appendix IV for Building Rules and Regulations; Appendix V for 28 Liberty rooms/offices/furniture renderings and elevations; and Appendix VI for 28 Liberty material, finish samples and swatches for lobbies, elevator lobbies, office corridors, offices, cubicles, etc.

2.2 Phase 2: Design

The selected proposer shall produce preliminary, interim and final designs for each of the signage types identified in the signage and wayfinding strategy, along with sample layouts for each identified sign. The manufacturer's logo may not be located on any sign surface visible to the public. Phase two (2) will require final approval of all proposed designs and signs by the OAG Administrative Services Bureau. The selected proposer shall submit design information for OAG review and approval. Design information shall include:

- **2.2.1** Graphic layout
- **2.2.2** Office and miscellaneous signs; should incorporate a five (5) character alphanumeric room number. For example, 13A01 or 23Q44.
- **2.2.3** Signage Text
- **2.2.4** Fonts
- **2.2.5** Size/Dimensions,
- **2.2.6** Suggested material options, including options to update office and workstation signage directly by OAG staff.
- **2.2.7** Final base and/or mounting options. Offices will have glass front walls and doors. Workstations will have fabric or laminate panels, and will be in clusters of two (2) or four (4). Other miscellaneous signage will be mounted on the building core material, sheetrock, or glass.
- **2.2.8** Placement within 28 Liberty.

Final design documentation shall include final design specifications for each sign type, including various options for materials and fabrication, all of which must fall within the project budget. Cost should be based on selected proposer product line options one (1), two (2) or three (3). Proposed Product line options are as follows: Proposer's standard product line for all interior signage (Standard); Combination of proposer's standard product line for interior room signs and custom signage for interior wayfinding signage (Combination); Proposer's custom sign design for all interior signs (Custom). Final designs are subject to OAG approval and authorization to proceed.

2.3 Phase 3: Fabrication and Maintenance Plan

This phase includes fabrication and construction documentation, assembly and field testing of sample signs, specifications for on-going sign replacement and maintenance, and permit approval (if required) for all sign types. The selected proposer will prepare an implementation plan for fabrication and installation that includes the following components:

- **2.3.1** The number of each sign type required and written cost estimates, based on final design specifications and product line options selected by the OAG.
- **2.3.2** Installation plan, with timing and phasing based on cost and order of priority of signage elements to meet the construction and moving schedule.
- **2.3.3** Maintenance specifications for cleaning, replacing and repairing signage

2.4 Phase 4: Installation

The selected proposer shall be responsible for fabrication and installation of new signage. Each stage of fabrication, installation and/or maintenance, is subject to OAG approval and will not be considered completed until such approval is provided. Signs must be level, plumb and installed at the height indicated in the final design plans. Signage surfaces must be free from distortion or other defects in appearance and any existing surfaces damaged by installation must be repaired.

The OAG reserves the right to apply, modify or use the materials, processes and designs funded and developed in this project for other uses at a future date. The selected proposer will not be held liable for any design modifications and changes subsequent to contract completion. The selected proposer is limited to those items developed as part of this project and does not include the proprietary materials; designs and processes that the selected proposer could bring into use on the project that were developed without the project's funding.

3. EVALUATION CRITERIA AND CONTENT

3.1 Method of Award

The OAG will evaluate and score proposals based upon best value and upon the criteria set forth in this section. The OAG Budget and Fiscal Management Bureau (BFMB) will initially determine on a pass/fail basis whether the proposals are responsive to the requirements of the solicitation and whether the bid will be further evaluated. Each proposer's bid submission must first meet the minimum requirements before the OAG technical evaluation team can review the bid submission against technical components. Corrections/clarifications are allowed, but must be provided within two (2) business days of request by the OAG.

Upon completion of the evaluation process, a contract will be awarded to the vendor whose proposal met the minimum requirements and obtained the highest composite score, inclusive of both technical component (70 points of total score) and cost component (30 points of total score).

3.2 Minimum Bidder Requirements

The contractor must have at least five (5) years' experience providing planning, design, installation and oversight of signage and wayfinding systems for commercial, institutional, and/or public sector clients, preferably in New York City. If a proposer fails to include all of the requested information in the requested format, the OAG may consider the proposal incomplete and may, in its sole discretion, disqualify that proposal from evaluation for further consideration.

3.3 Technical Proposal (70 Points of Total Score)

The result of the technical evaluation will be a point total, with a maximum possible score of 70 points. All scoring will be done independently for each and every bidder. They will not be weighed against one another. Scoring will be based on well-written and very detailed responses, which would basically leave the OAG with few or no questions about the bidder's capabilities to fulfill the OAG's needs.

Please note, bid submissions may not exceed 25 single-sided pages (maximum 8½" x 11") with a minimum of 10 pt. type. Submissions exceeding the page limit will be considered non-responsive and will be returned to the applicant without further evaluation. The following information is not included in the page limit: Cover letter on Signage Company letterhead (maximum of 1 page); Résumés for each key team member (maximum of 2 pages each); OAG required Appendices; or brochures providing examples and pictures of proposed signage and wayfinding system that incorporates product sustainability and outlines a warranties that will be provided, regarding materials, installation and the final signage product.

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<u>NOTICE TO ALL BIDDERS</u> - PROPOSAL SECTIONS MUST BE CLEARLY LABELED, EASILY SEPERATED AND MUST FOLLOW THE BELOW FORMAT AND CONTENT REQUIREMENTS:

SECTION I. of all bidder responses shall include the following:

I. **Appendix I -** Bidder's Response Cover Page: By submitting an application with a signed cover letter, you indicate full knowledge and acceptance of this RFP, including Appendix A (Standard Clauses for New York State OAG Contracts) and Appendix B (General Specifications).

I.i **Table of Contents**

SECTION II of all bid submission shall include the following:

II. **Qualifications**

II.ii **Technical Capability and Experience (30 points):**
Provide a brief history of your company, including number of years in business, an organization chart of your company, a summary of the project team background, and a project list containing three (3) to five (5) projects completed by your company that best represents a similar scope. For each project include the following: Project name, location, time frame and completion date; Reference name and contact information; Projects overall scope; Discuss issues or aspects that would demonstrate your ability to problem solve and deliver creative solutions; Final cost of project; Cost effective measures or value-engineering suggested.

II.iii **Capacity to Perform the Work within the Specified Time Frame (30 points):**
Illustrate an understanding of the scope of work and the ability to undertake the job duties in Section two (2) – Scope of Work and Services. Provide an estimated project schedule indicating critical dates based on information provided by the OAG and demonstrate a capacity to complete the project by the projected deadline. Such schedule should detail each phase needed to complete a task and the proposed team member(s) responsible for completing that task. Provide the location of the prime installation team and the consultant offices proximity to the site. Describe the design/installation team's familiarity with the site, site conditions, restrictions and special project considerations based on project site.

II.iv **Demonstrates Strong Design Aesthetic (10 Points):**
Provide three samples of proposed signage for each of the following product line options:

2.1.3.1: Proposer's standard product line for all interior signage

2.1.3.2: Combination of proposer's standard product line for interior room signs and custom signage for interior wayfinding signage.

2.1.3.3: Proposer's custom sign design for all interior signs.

SECTION III of all bid submission shall include the following:

III. **Appendices as Follows:**
Vendor Responsibility Questionnaire, either a certification of online filing or paper version
Procurement Lobbying Form
NYS Workers' Compensation Insurance Coverage (see Quick Guide)
NYS Disability Benefits Insurance Coverage (see Quick Guide)
Substitute W-9 Form

SECTION IV of all bid submissions shall Include the following:

IV. **Cost Proposal -** Proposers must include Appendix II – Cost Proposal Response Sheet in their bid submission. Cost Proposals submitted in any other format will not be accepted. Cost proposals

shall be inclusive of all costs including travel, licenses, insurance, administrative, and other ancillary costs. For the purposes of this contract, full service shall mean that the Contractor's bid price includes: all labor and equipment cost; reporting or other requirements; all overhead costs and profit. Details of service not explicitly stated in these specifications, but necessarily attendant thereto are deemed to be understood by the Contractor and included herein.

3.4 Cost Proposal (30 Points of Total Score)

The OAG BFMB will evaluate all cost proposals from responsive proposers. The cost proposal with the lowest arithmetic mean of the three (3) grand total signage pricing options, e.g. (Price Option 1 Grand Total + Price Option 2 Grand Total + Price Option 3 Grand Total) / 3, will be awarded the maximum possible points.

The cost proposal will be evaluated using the following formula: (Averaged Lowest Cost Proposal Offer / Averaged Cost Proposal being Evaluated) x 30 = Financial Component score.

Signage Pricing Options:
The OAG requests that proposer must provide three price line options based on the following criteria:
Option 1 - Standard: Proposer's standard product line for all interior signage
Option 2 - Combination: Combination of proposer's standard product line for interior room signs and custom signage for interior wayfinding signage.
Option 3 - Custom: Proposer's custom sign design for all interior signs.

Please note, the product line option pricing will be used for finished signage product pricing. This pricing, at the OAG's discretion, may be incorporated into any resulting contract offered by the OAG to the selected proposer.

4. PROPOSAL COMMUNICATION AND SUBMISSION INSTRUCTIONS

4.1 Questions/Inquiries and/or Clarifications

All questions should be submitted in writing, citing the particular RFP section. Prospective Bidders should note that all clarifications, including those relating to the terms and conditions of the contract, are to be resolved prior to the submission of an application. Questions/inquiries and/or requests for clarification will only be accepted via e-mail and should be submitted to the following e-mail address: purchase@ag.ny.gov with the subject line of "RFP 17-015 Architectural Signage – Q&A [Inset Vendor Name]". Official answers to questions will be provided via addendum and posted to the OAG website: http://www.ag.ny.gov/budget-fiscal/procurement. Answers will also be emailed to all organizations who received this solicitation via email.

4.2 Bid Submission Instructions

Certified mail, first class mail, overnight delivery, hand delivered applications or walk-ins will not be accepted. Facsimile submissions will not be accepted. The Office of the Attorney General will not acknowledge receipt of applications delivered by mail, fax or in person. Applications must be submitted via e-mail to purchase@ag.ny.gov with the subject line of "Response Enclosed for RFP #17-015 – [Insert Vendor Name]". The Bidder is responsible for ensuring arrival by the deadline date and time. **The maximum size for e-mail is 20MB. It is in the bidder's best interest to send a second email to request receipt confirmation of bid package submissions.**

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5. ADMINISTRATIVE INFORMATION

5.1 Bidder Debriefing

A bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Prior to contract award, the OAG shall, upon request, provide a debriefing, which would be limited to review of that bidder's proposal or bid. After contract award, the OAG shall, upon request, provide a debriefing to any unsuccessful bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such bidder was not selected for a contract award. The post-award debriefing should be requested in writing within 30 days of notification of the contract award.

5.2 Invoicing and Payment

Payments are made against the contract, encumbrance documents or other written orders.

All invoices for payment shall be submitted to the Office of the Attorney General, Accounts Payable Unit, within thirty (30) days after the end of the month in which the services were performed. The invoice shall contain the following:

(1) Payee's complete name, telephone, email address, address, including zip code*;
(2) Statewide Financial System vendor identification number;
(3) Contract or Purchase Order number assigned by OAG;
(4) Itemized breakdown of the services rendered including name, titles, hourly rate, # of hours worked, dates, etc. and/or list of commodities provided including sku, item or part #'s, etc.

*Information should agree with Remit to information in the Statewide Financial System.

Invoices can be submitted by mail or email:

NYS Office of the Attorney General,
Budget & Fiscal Management Bureau - Payments Unit
The Capitol
Albany, NY 12224-0341

E-Mail: payments@ag,ny.gov

All records regarding service and billings to the OAG under this contract shall be retained as per Appendix A, Clause #10 – Records and may be subject to audit by appropriate State officials upon written notice.

5.3 Electronic Payment

Contractor shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the contract, the agency, and OSC. Payment for invoices submitted by the contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at OSC's website at http://osc.state.ny.us/vendors/epayments.htm, by e-mail at ePayments@osc.state.ny.us, or by phone at (855) 233-8363. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with OSC's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

Please note that in conjunction with New York State's implementation of the statewide financial system, OSC requires all vendors doing business with New York State agencies to complete a Substitute W-9 form. Vendors registering for electronic payment can complete the W-9 form when they register. Vendors already registered for electronic payment are requested to go to the above website and complete the Substitute W-9 form and submit following the instructions provided.

5.4 Hours of Operation and Legal Holidays

The selected proposer shall perform services on-site at the OAG NYC office, currently located at 120 Broadway, New York, NY and the new site located at 28 Liberty, New York, NY. The selected proposer shall be available to provide services during OAG hours, Monday through Friday.

The following are a list of State holidays that need to be considered during the course of providing services under any resulting contract:

☐	New Year's Day	☐	Labor Day
☐	Martin Luther King Day	☐	Columbus Day
☐	Lincoln's Birthday (Floater)	☐	Election Day (Floater)
☐	President's Day	☐	Veteran's Day
☐	Memorial Day	☐	Thanksgiving Day
☐	Independence Day	☐	Christmas Day

5.5 Appropriated Funds

The purchase of service or product, which arises from this solicitation, is contingent upon the availability of appropriated funds. The OAG shall have the right to terminate the resulting contract at the end of the current or each succeeding fiscal year if funds are not appropriated by the Legislature and Governor for the next fiscal year that would permit continuation of the resulting contract. If funds are withdrawn or do not become available, The OAG reserves the right to terminate the contract by giving the contractor a thirty (30) day written notice of its intention to terminate without penalty or any further obligations on the part of the OAG or the contractor. Upon termination of the contract, the OAG shall not be responsible for any payment of any service or product received that occurs after the end of the current contract period or the effective date of termination, whichever is the earlier to occur. The OAG's fiscal year begins on April 1st and ends on March 31st.

6. CONTRACT CLAUSES AND REQUIREMENTS

6.1 Appendix A/Order of Precedence

Appendix A — Standard Clauses for New York State Contracts, dated January 2014 attached hereto, is hereby expressly made a part of this solicitation document as fully as if set forth at length herein.

The agreement resulting from a successful award will include the following documents. Conflicts between these documents will be resolved in the following descending order of precedence:

4.1.1 Appendix A (Standard Clauses for NYS Contracts)
4.1.2 Contract
4.1.3 OAG RFP 17-015, Appendix B (General Specifications) and any other addendum
4.1.4 Selected Contractor(s) Bid
4.1.5 Unincorporated Appendices

6.2 Appendices

The bidder's attention is directed to the appendices documents attached hereto, and hereby incorporated by reference and made part hereto as fully as if it were set forth at length herein. They are a part of the contract and the bidder is responsible for adhering to all requirements of all attachment and appendices.

6.3 Procurement Lobbying Requirements

State Finance Law §§139-j and 139-k imposes certain restrictions on communications between the OAG and the bidder during the procurement process. The bidder is restricted from making contacts from the date of bid advertisement in the NYS Contract Reporter through final approval of the contract award by the Office of the State Comptroller, with anyone other than designated OAG staff; certain exceptions to this restriction are set forth in State Finance Law §139-j(3)(a). OAG employees are also required to obtain certain information when contacted during the "restricted period" and to make a determination of responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award, and in the event of two such findings within a four-year period, the bidder is debarred from obtaining State contracts. Further information about these requirements can be found on the OGS website:
http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html

6.4 Procurement Rights

State of New York reserves the right to:

5.4.1 Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available.

5.4.2 Reject any or all proposals received in response to this solicitation.

5.4.3 Disqualify a Proposer from receiving the award if the Proposer, or anyone in the Proposer's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.

5.4.4 Correct Proposers' mathematical errors and waive or modify other minor irregularities in proposals received, after prior notification to the Proposer.

5.4.5 Negotiate with Proposers responding to this solicitation within the solicitation requirement to serve the best interest of the State.

5.4.6 Not make an award from this solicitation.

5.4.7 Make an award under this solicitation in whole or in part.

5.4.8 Make multiple contract awards pursuant to the solicitation.

5.4.9 Seek clarifications from bidders for the purpose of assuring a full understanding of responsiveness to the RFP.

5.4.10 OAG has the right to all interpretation issues with respect to the content/language and meaning thereof the RFP and contract.

6.5 Dispute Resolution

It is the policy of the Office of the Attorney General, Budget & Fiscal Management Bureau, to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to bid solicitations, contract awards and contract administration. The Budget & Fiscal Management Bureau encourages vendors to seek resolution of disputes informally, through consultation with agency staff, prior to commencing a formal dispute process. All such matters will be accorded impartial and timely consideration.

6.6 Procurement Lobbying Termination

As stated in Section 4.9 – NYS Vendor Responsibility Questionnaire For-Profit Business Entity and/or "Termination – for Cause" in Appendix B, General Specifications and/or New York State Finance Law Section 139-

k, the Office of the Attorney General reserves the right to terminate a contract by providing ten (10) days written notification to the Contractor, for cause in the event of determination made after an award with respect to vendor non-responsibility, or in the event of determination that certification filed in accordance with State Finance Law Section 139-k was intentionally false or intentionally incomplete.

6.7 Subcontracting

Contractor may subcontract to subcontractors selected by Contractor. A subcontractor shall be defined as any firm or person who is not a full time employee of the Contractor, engaged or assigned to perform work under the Contract. All agreements between the Contractor and its subcontractors shall be by bona fide written contract. A subcontractor cannot subcontract work under the resulting contract. Any costs associated with subcontracting are the obligation of the Awarded Contractor.

Contractor shall be fully responsible to OAG for the acts and omissions in the performance of services under the Contract of the subcontractor and/or persons either directly or indirectly employed by it or by the subcontractors, as it is for the acts and omissions in the performance of services under the Contract or persons directly employed by the Contractor. Contractor shall not in any way be relieved of any contractual or financial responsibility under the Contract by its agreement with any subcontractor or by an OAG approval of such an agreement with a subcontractor.

The State reserves the right to reject any proposed subcontractor for bona fide business reasons, which may include, but are not limited to: that the proposed subcontractor is on the Department of Labor's debarred **list; the State** determines that the company is not qualified; unsatisfactory contract performance or service has been previously provided.

6.8 Indemnification

Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify and save harmless the Authorized Users from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the Authorized Users.

6.9 New York State Vendor Responsibility Questionnaire For-Profit Business Entity (hereinafter the "Questionnaire")

The OAG conducts a review of prospective contractors ("Bidders") to provide reasonable assurances that the bidder is responsive and responsible. A Questionnaire is used for non-construction contracts and is designed to provide information to assess a bidder's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a bid, bidder agrees to fully and accurately complete the "Questionnaire." The bidder acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the bidder is responsible, and that the State will be relying upon the bidder's responses to the Questionnaire when making its responsibility determination.

OAG recommends each bidder file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller's (OSC) website, http://www.osc.state.ny.us/vendors/index.htm or to enroll, go directly to the VendRep System online at

https://portal.osc.state.ny.us/Enrollment/register OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at http://www.osc.state.ny.us/portal/contactbuss.htm. Bidders opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at: http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

In order to assist the State in determining the responsibility of the bidder, the bidder should complete and certify (or recertify) the Questionnaire no more than six (6) months prior to the bid opening date. A bidder's Questionnaire cannot be viewed by the OAG until the bidder has certified the Questionnaire. It is recommended that all bidders become familiar with all of the requirements of the Questionnaire in advance of the bid opening to provide sufficient time to complete the Questionnaire.

The bidder agrees that if it is found by the State that the bidder's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the OAG may terminate the Contract. In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

6.10 Tax Law § 5-A (Amended April 26, 2006):

Tax Law § 5-a, as amended on April 26, 2006, requires certain contractors who are awarded state contracts for commodities and/or services valued at more than $100,000 (over the full term of the contract, excluding renewals) to certify to the Department of Taxation and Finance (DTF) they are registered to collect New York State (NYS) and local sales and compensating use taxes. The law applies to contracts where the total amount of the contractor's sales delivered into NYS exceed $300,000 for the four quarterly periods immediately preceding the quarterly period when the certification is made; and with respect to any affiliates and subcontractors whose sales delivered into NYS also exceed $300,000 in the same manner as noted above for the contractor.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a contract awarded to a contractor meeting the registration requirements but who is not so registered in accordance with the law.

The OAG reserves the right to terminate the contract in the event it is found that the certification filed by the Contractor in accordance with §5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the OAG may exercise its termination right by providing written notification to the Contractor.

Vendors may call DTF at (518) 485-2889 for any and all questions relating to Tax Law § 5-a and relating to a company's registration status with DTF. For additional information and frequently asked questions, please refer to the DTF web site: http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf

6.11 Workers' Compensation Insurance and Disability Benefit Requirements

Workers' Compensation Law (WCL) §57 &§220 requires the heads of all municipal and state entities to ensure that business applying for permits, licenses or contracts document they have appropriate workers' compensation and disability insurance coverage. These requirements apply to both original contracts and renewals, whether the governmental agency is having the work done or is simply issuing the permit, license or contract. Failure to provide proof of such coverage or a legal exemption will result in rejection of your bid or renewal. Contractor seeking to

enter into a contract with the State of New York shall reference the Quick Guide to Workers Compensation and Disability Insurance to determine which forms to provide to the OAG at the time of bid submission or shortly after the bid submission deadline. ALL FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME: The NYS Office of the Attorney General, Budget and Fiscal Management Bureau, State Capitol, Albany, NY 12224 as the Entity Requesting Proof of Coverage (Entity being listed as Certificate Holder).

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STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL (OAG)

Request for Proposals (RFP) for Architectural Signage and Wayfinding Design
RFP #17-015

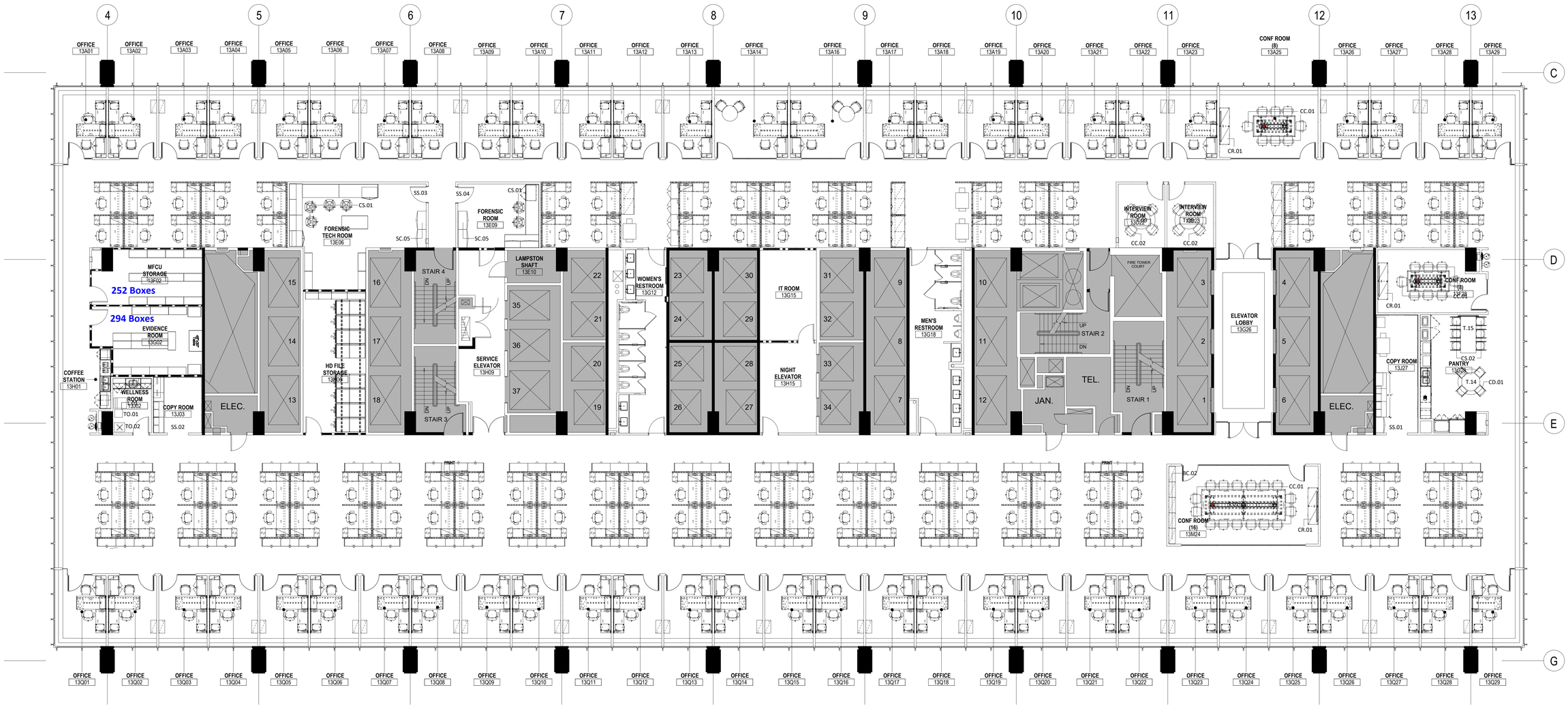
APPENDIX I – PROPOSAL RESONSE COVER FORM

Complete this form in its entirety using ink or typewriter and return with all other required documents. The bid must be fully and properly executed by an authorized person. Bids must be signed.	
RFP Number: 17-015	**Issued:** February 1, 2018
Bid Description: Architectural Signage and Wayfinding Design	
Vendor's Federal Tax ID #:	**Vendor's NYS Vendor ID #**:
Vendor's Legal Business Name:	
Vendor's Address (Physical Location):	
Phone:	**Email:**
The undersigned certifies that they are duly elected and authorized officer of the company and that, as such, are authorized to sign this Request for Proposals (RFP), on behalf of the company, to obligate the company to comply with all of the terms and conditions placed on this RFP, and in connection with this RFP to make, execute and deliver on behalf of the company all appendices, contract agreements, representations and instruments of every kind. The undersigned certifies that your company has the experience, financial resources, capabilities and licenses (if applicable) to perform the type, magnitude, and quality of work as specified in this RFP. The undersigned certifies that the company shall comply with all relevant federal, state and local laws and rules including but not limited to, New York General Business Law, New York Civil Practice Law and Rules and the New York Business Corporation Law.	
In addition to the above, the undersigned certifies that the company meets all the minimum requirements set forth this RFP, including Section 3.2. **<u>Please check the applicable box</u>:** ☐ Meets Minimum Requirements ☐ Does Not Meet Minimum Requirements	
Bidder's Printed Name:	**Signature:**
Title:	**Date:**

APPENDIX III

28 Liberty Plans with Notes

28 Liberty - November 2017



Medicaid Fraud Control Unit

2 Large offices, 53 Small offices, 100 Workstations

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NYS OAG 13th Floor

Overall Furniture Plan - Tagged

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Customer Signature:

Date:

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Date: 2017.10.13

Last Revised By:

Date:

Checked By:

Date:

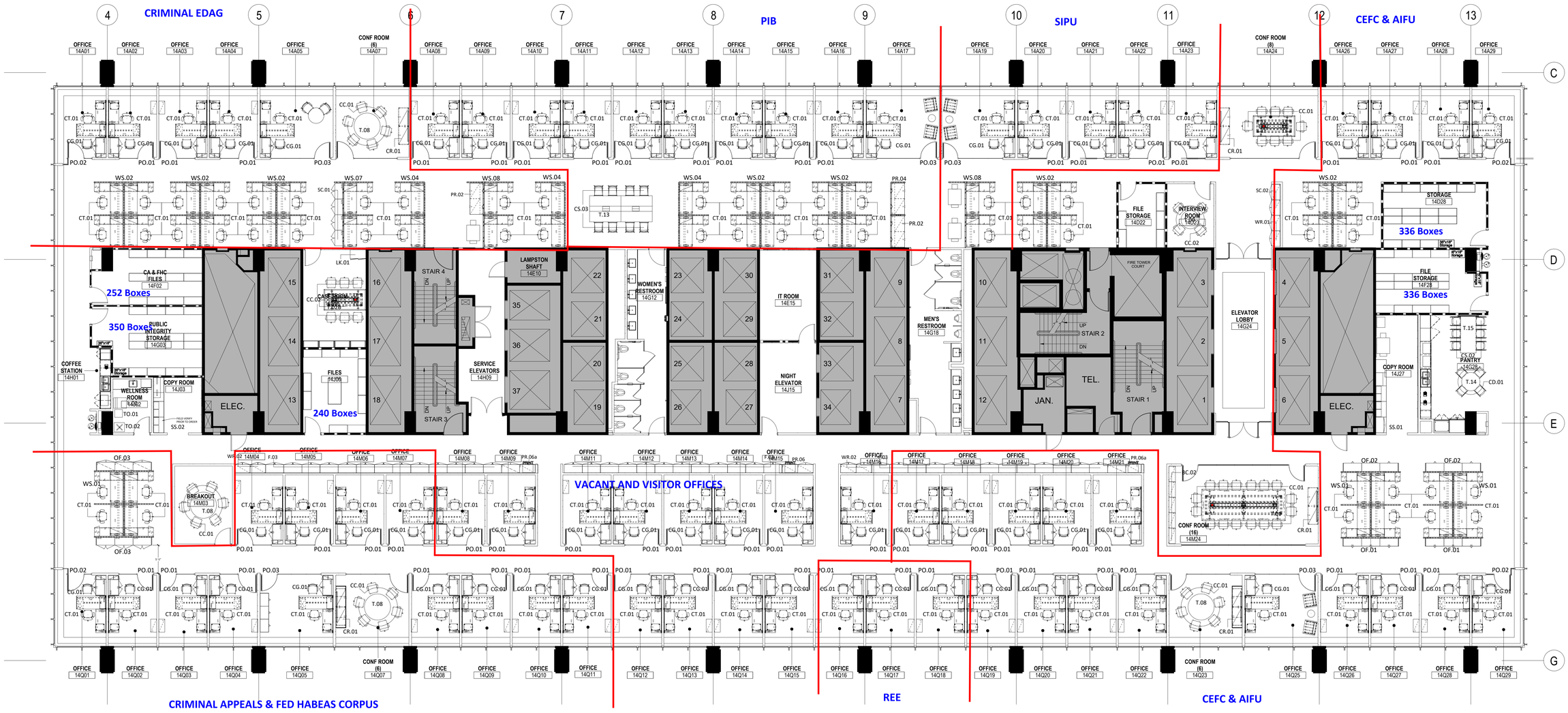
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Sheet:

FT-13



Criminal & Criminal Appeals & Federal Habeas Corpus

Exec - 1 Large office, 4 small offices, 4 workstations
Criminal Enforcement & Financial Crimes (CEFC & AIFU) - 1 Large office, 17 small offices, 12 workstations, 4 Summer Interns
Public Integrity Bureau (PIB)- 1 Large office, 9 small offices, 5 workstations, 4 Summer Interns
Real Esate Enforcement (REE) - 3 Small offices
Special Investigations & Prosecutions Unit (SIPU)- 4 Small offices, 2 workstations, 1 Summer Intern

CRIMINAL APPEALS & FED HABEAS CORPUS- 1 Large office, 12 small offices, 4 workstations, 2 Summer Interns

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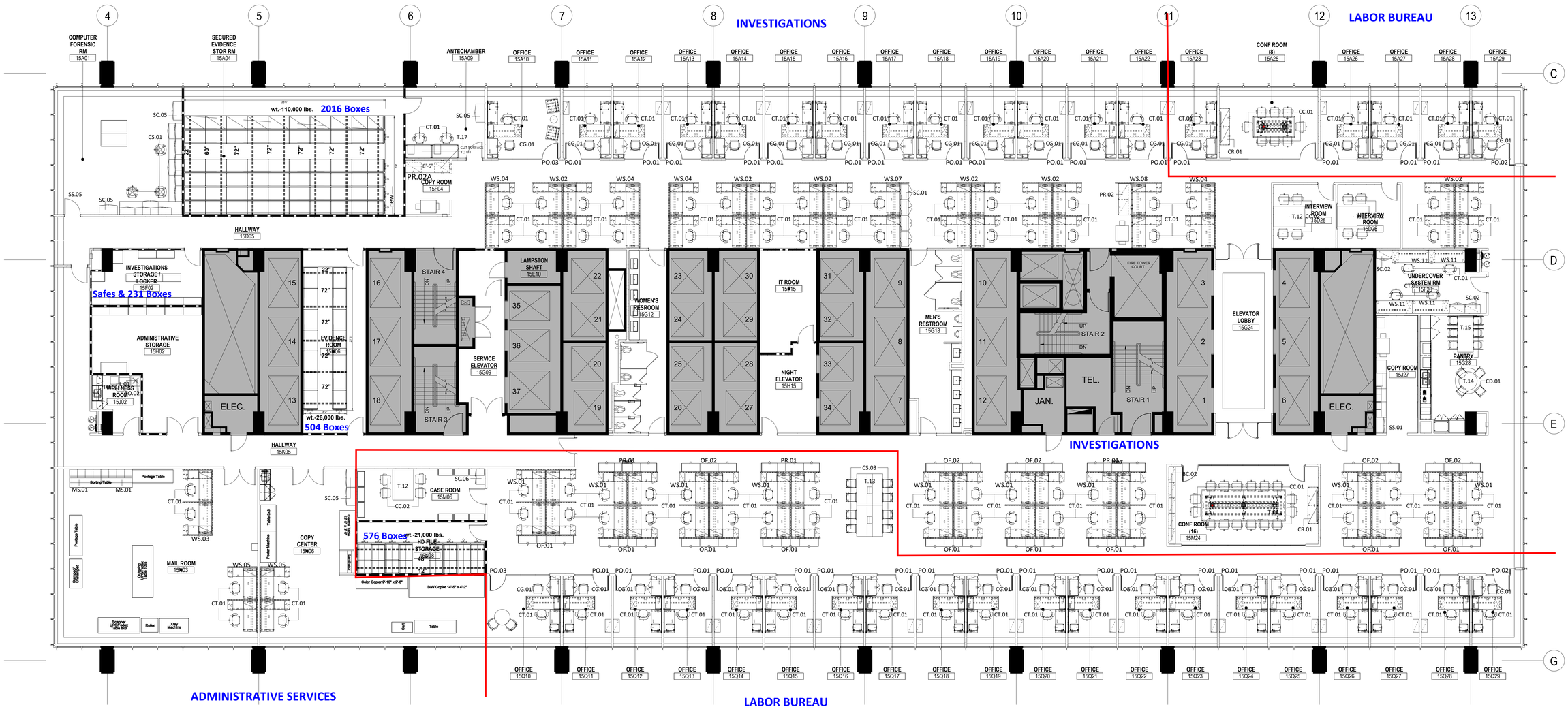
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Sheet:

FT-14



Investigations, Labor, and Administrative Services

Investigations - 1 Large office, 13 small offices, 56 workstations
Labor Bureau - 1 Large office, 24 small offices, 8 workstations, 5 externs, 5 Summer interns
Administrative Services Bureau - Mail Room, Print Shop, Storage, 6 workstations

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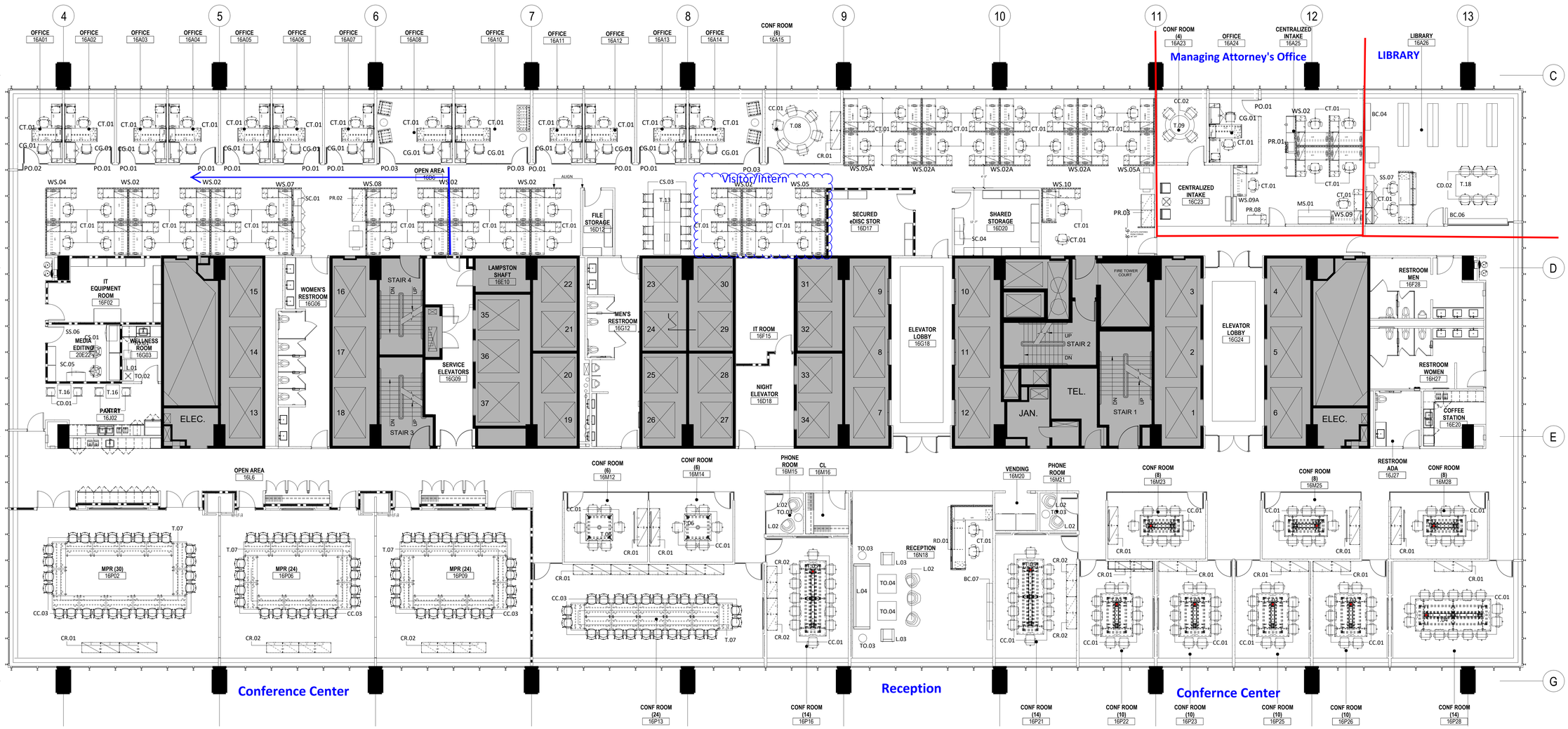
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Sheet:

FT-15

DIVISION OF ADMINISTRATION - Deputy COO, Administrative Services, Budget & Fiscal Management, Human Resources, Information Technology, Legal Education & Staff Development, Legal Recruitment



Conference Center, Administration, Library, Managing Attorney

Conference Center = 16 rooms with 1 MPR which can divide into 3 rooms, 1 @ 24 seats, 3 @ 12 seats, 4 @ 10 seats, 3 @ 8 seats, 2 @ 6 seats.

Administration - 3 Large offices, 11 small offices, 42 workstations
Library - Desk seating for 2
Managing Attorney - 1 Large office, 1 small office, 6 workstations

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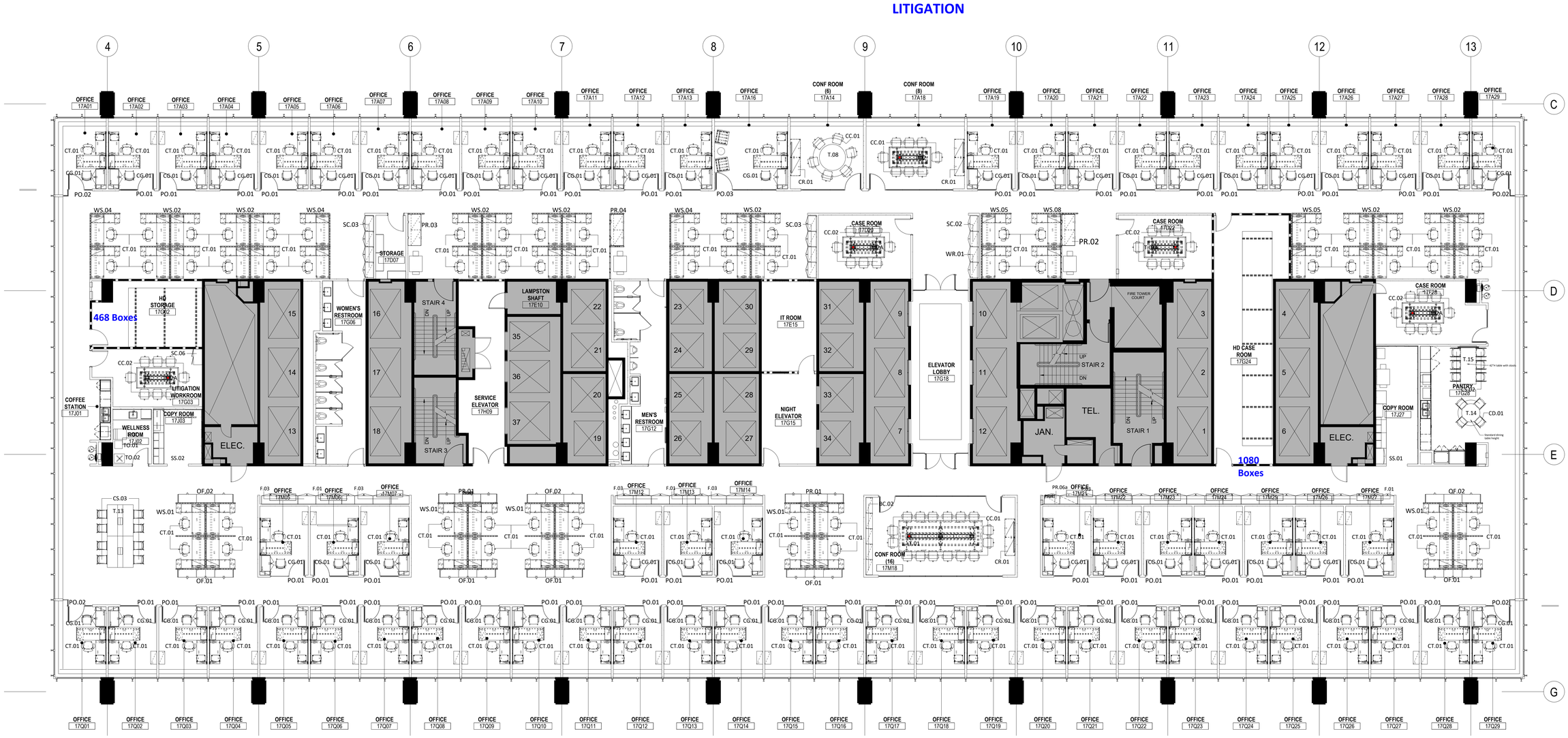
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Sheet:

FT-16



Litigation Bureau - 17th floor and portion of 18th floor

1 Large Office, 66 small offices, 60 workstations

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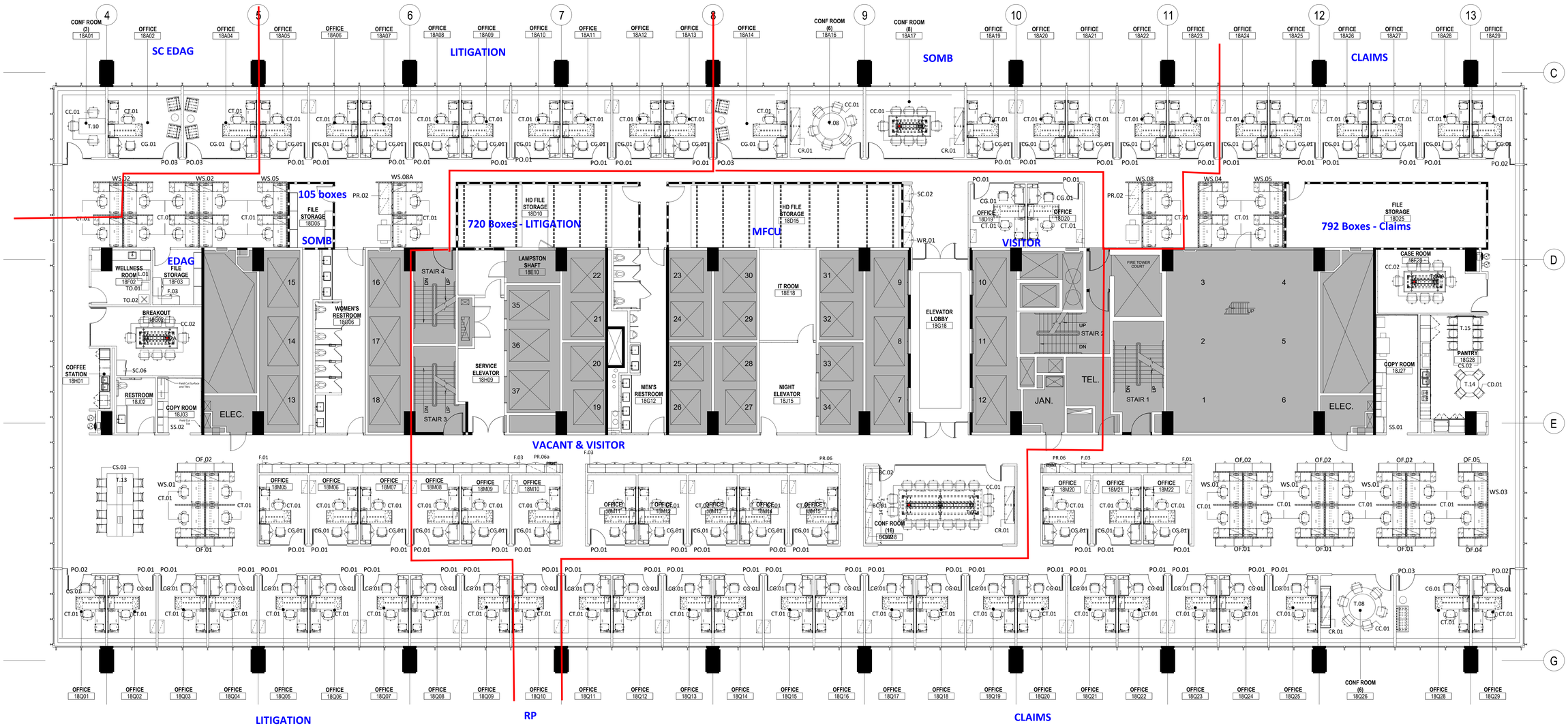
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Sheet:

FT-17



State Counsel EDAG, Claims, Litigation, Real Property , SOMB

EDAG - 2 Large offices, 1 workstation
Claims Bureau- 1 Large office, 25 small offices, 18 workstations
Litigation Bureau - 21 Small offices, 15 workstations
Real Property - 1 Small office
Sex Offender Mangement Bureau (SOMB) - 1 Large office, 5 small offices, 2 workstations

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NYS OAG 18th Floor

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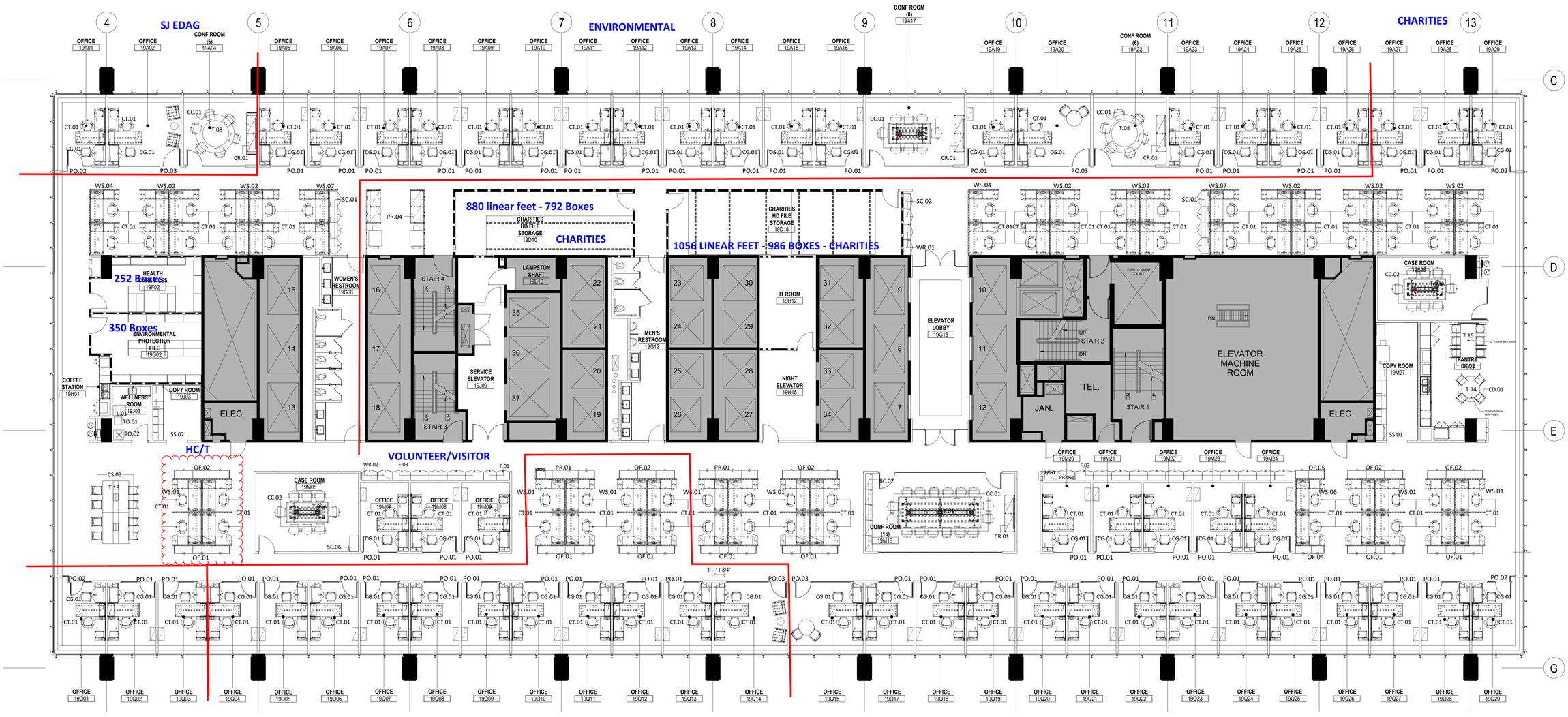
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REVISION

Sheet:

FT-18



Charities, Environmental Protection, Health Care/Tobacco, Social Justice EDAG

Charities Bureau- 1 Large office, 21 small offices, 23 workstations + 17 temps + 2 externs + 3 Summer Interns
Environmental Protection Bureau - 1 Large office, 19 small offices, 5 workstations + 6 externs + 13 Summer Interns + Volunteer AAG's
Health Care/Tobacco Bureau - 1 Large office, 10 small offices, 6 workstations + 6 externs + 7 Summer Interns
EDAG - 1 Large office, 1 small office

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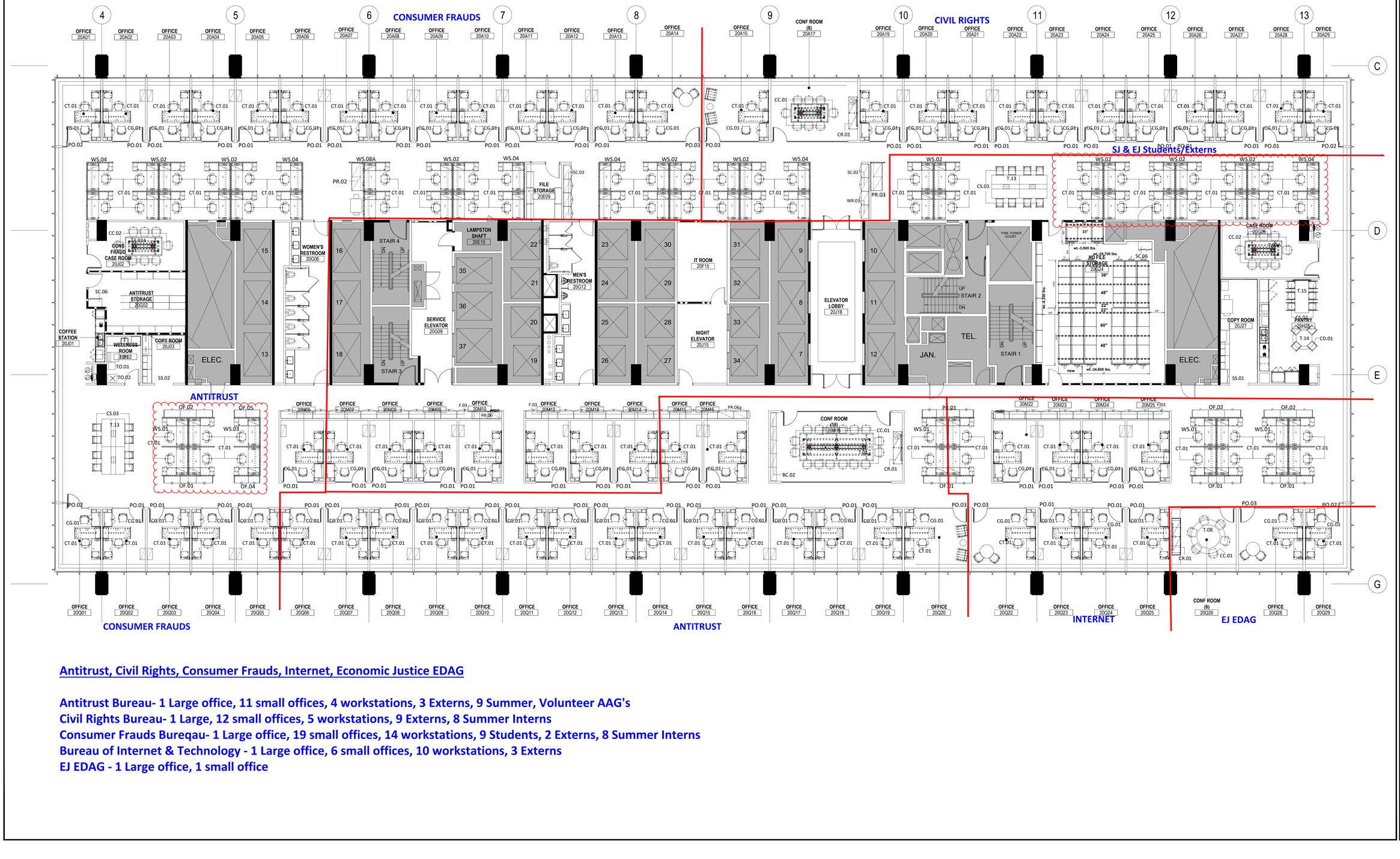
SCALE: 1/8" = 1'-0"

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REVISION

Sheet:

FT-19



[Antitrust, Civil Rights, Consumer Frauds, Internet, Economic Justice EDAG](#)

Antitrust Bureau- 1 Large office, 11 small offices, 4 workstations, 3 Externs, 9 Summer, Volunteer AAG's
Civil Rights Bureau- 1 Large, 12 small offices, 5 workstations, 9 Externs, 8 Summer Interns
Consumer Frauds Bureqau- 1 Large office, 19 small offices, 14 workstations, 9 Students, 2 Externs, 8 Summer Interns
Bureau of Internet & Technology - 1 Large office, 6 small offices, 10 workstations, 3 Externs
EJ EDAG - 1 Large office, 1 small office

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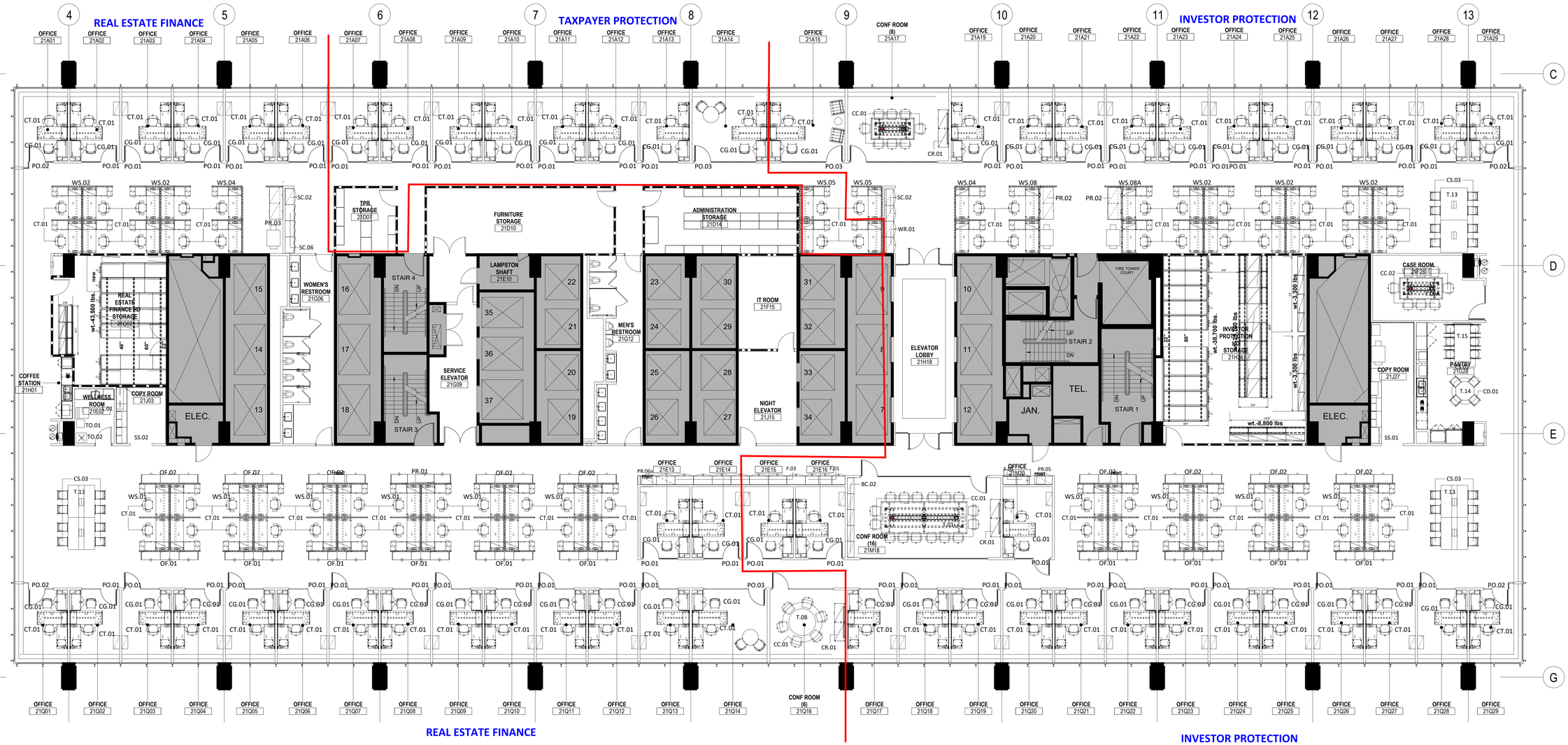
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Sheet:

FT-20



[Investor Protection, Real Estate Finance, Taxpayer Protection Bureau]

Investor Protection Bureau- 1 Large office, 25 small offices, 22 workstations + 2 Externs, 18 Summer Interns
Real Estate Finance Bureau - 1 Large office, 21 small offices, 26 workstations + 6 Summer
Taxpayer Protection Bureau - 1 Large office, 7 small offices, 4 workstations + 1 Extern + 1 Summer Intern

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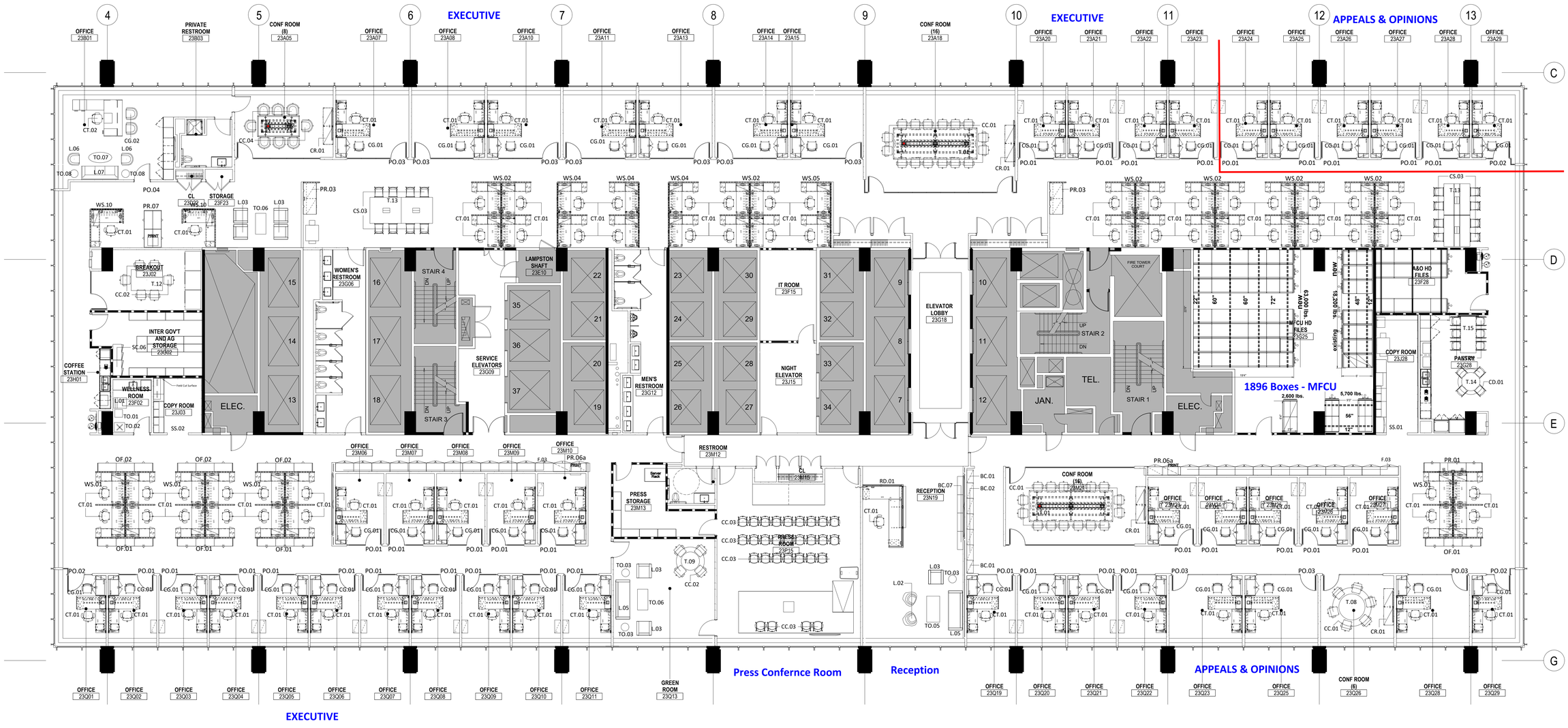
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SCALE: 1/8" = 1'-0"

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Sheet:

FT-21



Executive , Appeals & Opinions

Executive - 1 XL office, 7 Large offices, 20 small offices, 30 workstations
Appeals & Opinions Bureau - 3 Large offices, 16 small offices, 2 workstations

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Customer Signature:

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Date:

SCALE: 1/8" = 1'-0"

PROJ. NO.:

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FT-23

Sign Counts by Floor

Floor	Offices	Workstations	Copy	Pantry/Coffee	File/Storage	Conference/ Case/Work	Wellness	IT	Elevator Lobby	Wayfinding	Forensic	Mail Room	Print Shop	Interview Room	System Room	Managing Attorney Office	Library	Vending Room	Reception Area	Phone Room	Administration Room	Office of the Attorney General Staff Only	Press Conference Room	Green Room
13	55	100	2	2	3	5	1	1	2	4	2													
14	66	52	2	2	6	8	1	1	2	4														
15	38	84	2	1	6	3	1	1	2	6	1	1	1	2	1									
16	14	55		3	5	18	1	1	4	10						1	1	1	1	2	2	2		
17	67	60	2	2	3	7	1	1	2	4														
18	66	36	2	2	5	6	1	1	2	4														
19	59	66	2	2	4	6	1	1	2	4														
20	66	68	2	2	4	5	1	1	2	4														
21	58	72	2	2	5	4	1	1	2	4														
23	47	51	2	2	4	5	1	1	2	4									1				2	1
Totals	536	644	18	20	45	67	10	10	22	48	3	1	1	2	1	1	1	1	2	2	2	2	2	1

APPENDIX IV

28 Liberty
Rules and Regulations



28 LIBERTY

Rules and Regulations

For Contracted Service Personnel

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28 Liberty Street
RULES AND REGULATIONS
FOR CONTRACTED SERVICE PERSONNEL

Updated: 1 1 / 1 6 /2016

The following Rules and Regulations will be strictly adhered to by all contractors, vendors, consultants, etc. working in or visiting 28 Liberty Street. In all cases, coordinate activities or questions with the Building Office. The General Contractor, Project Manager or other Project Lead is to issue a copy of these rules to all subcontractors and to all employees.

The BUILDING OFFICE reserves the right to require removal from the building of any contractor or subcontractor's employee exhibiting behavior that would justify termination under BUILDING OFFICE guidelines. Such action does not waive the contractor's responsibility to complete the job as agreed.

SAFETY PROCEDURES

1. The contractor/subcontractor is to provide and maintain a safe, hazard-free environment during all phases of work, for example:

    a. Correction of all slippery conditions and ensure that no hazard exists
    b. Prevention of any danger from falling objects
    c. Use of safe procedures with equipment

2. No storage of flammable substances will be allowed in the Building unless approved by the Building Office and stored in accordance with approved building codes and NFPA regulations. When such storage is authorized, the volume of this material shall be as minimal as possible and only so much as required for the immediate work, and shall be stored in the proper U.L. rated fireproof enclosure. Material Safety Data sheets must be prominently posted.

3. Any equipment powered by diesel fuel, gasoline, propane and other fossil fuels may not be used in the building without the expressed written permission of the Building Office.

4. After contractor completes daily work, all areas are to be cleaned and swept. Any improperly stored material or materials left in non-construction areas will be removed. Any costs incurred by the Building Office to remove such remaining debris will be charged to the contractor.

5. The contractor shall give all notices and comply with all Government Requirements (including, without limitation, all applicable regulations of OSHA) and all reasonable rules, regulations and orders of the Building Office bearing on the safety of persons and property or their protection from damage, injury or loss. On-site General Contractor supervision is required at all times while the work is being performed. It will be the responsibility of the General Contractor that all work adheres to all OSHA Safety Regulations.

The contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including, but not limited to, posting danger signs and other warnings against hazards, promulgating safety regulations, notifying owners and users of adjacent utilities, and erecting and maintaining such barricades and danger signals as are required to protect the work and adjoining persons and property, or as required by the Building Office and Government Requirements.

The contractor shall furnish, and maintain charged and mounted for ready use, fire extinguishers, fire pails and similar firefighting equipment, all of approved type, size and in quantities required by the Jurisdictional authorities. All of contractor's employees shall be properly trained in the operation of all firefighting equipment on site.

The contractor shall post emergency phone numbers conspicuously on the site and shall brief construction personnel on their use in accordance with the Building Office's instructions.

The contractor shall take all reasonable precautions for the safety of, and provide all reasonable protection to prevent damage, injury or loss to:

a. All of its employees at the site and all other persons who may be affected thereby;

b. All of its tools and equipment used on the work and all materials and equipment to be incorporated in the work, whether in storage on or off the site, or under the care, custody or control of the contractor, subcontractor or any bonded warehouse;

c. Other property at the site, or in the immediate vicinity of the site, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The contractor shall promptly remedy all damage or loss to any property which is caused in whole or in part by the contractor, any subcontractor, or by anyone for whose acts any of them may be liable and for which the contractor is responsible thereunder, without reimbursement from the Building Office or Owner other than the insurance proceeds therefore, except damage or loss attributable to the acts or omissions of the Owner or Consultant or anyone directly or indirectly employed by either of them, or by

anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the contractor.

The contractor shall not load or permit any part of the work to be loaded so as to endanger the safety of the work. All staging of materials will take into consideration floor loads. The Chief Engineer can, at any time, have a contractor or subcontractor move a load at his/her request.

The contractor shall at all times provide and maintain adequate protection against weather conditions so as to preserve all work, materials, equipment apparatus, fixtures and the work area from injury or damage.

The Building Office may provide watchmen at contractor's expense, if it deems it necessary for the proper protection of the work site; however, neither the Building Office nor the consultant shall be liable for any acts or omissions of said watchmen.

The contractor and its subcontractors and material men shall cooperate fully with all interested parties on accident prevention and claims handling procedures.

GENERAL

1. Building Office requires a minimum **14-Day** notification for any and all shutdowns inclusive of a written Methods of Procedure ("MOP"s). Shutdowns of any riser impacting existing service to any other tenant will require a minimum thirty **(30) Day** advance written notification inclusive of a written Methods of Procedure ("MOP"s) which will be approved by the building 14 days in advance prior to shut down or tie-ins. All demolition work also requires a MOP. (Sample MOP attached)

2. Any requests for Engineering or Electrical support must be submitted 48 hours in advance. Service Request to be submitted via Building Engines. (After approved MOP is in place – if required)

3. Freight cars should be scheduled with the Building Office 48 hours in advance via a service request in Building Engines. A charge for freight and guard services will apply.

4. A valid permit is required for all remodeling/renovation work (including landmarks) to be done at 28 Liberty Street. A copy of the permit must be given to the Building Office before any work can commence.

5. Project Manager is required to submit, for review and consent, two half-size sets of detailed drawings of all remodeling work planned in the building to the Building Office prior to submitting same to City for permit. Three (3) sets of full size drawing for any structural project work that requires landlord approval. The Building Office will return written questions and/or comments and/or consent regarding the drawings and scope of service to Project Manager within ten (10) business days.

6. No changes may be made to the finishes, height of ceiling, width of doors, amount or color of lighting, or other characteristics of the building and floor common areas, including but not limited to freight lobby, elevator lobby, core restrooms, without the express written pre-authorization and approval of Building Office.
7. Project Manager must submit the names of the General Contractor and all subcontractors to the Building Office. Upon receipt of the vendor list the Building Office will reply with consent of the vendors that have been approved. The Project Manager must ensure there is a written consent of all contractors prior to issuing work contracts and a 24-hour emergency contact list is provided to the Building Office for all general contractors and subcontractors before any work commences. General Contractor and all subcontractors must comply with the Building Rules and Regulations detailed herein and as directed by the Building Office and/or Chief Engineer, including, but not limited to, evidence of insurance meeting building owner's requirement, hours of work, access procedures and compliance with building specifications for mechanical, electrical, plumbing and fire protection systems.

8. Project Manager or General Contractor must submit a copy of the applicable DOB permits and detailed schedule for the remodeling or renovation work before work can commence, to the Building Office.

9. Upon successful completion of the remodeling or renovation work, the Project Manager or General Contractor must submit as built drawings for all mechanical, electrical, plumbing, fire protection systems, plus architectural as built drawings electronically in CADDC version 16 or higher and a hard copy to the Senior Real Estate Manager, as well as OEM manuals, required Sign-Offs and all warranty documentation. Project Manager or General Contractor must also submit to Senior Real Estate Manager a Certificate of Occupancy upon project completion.

CONTRACTOR / SUBCONTRACTOR REGULATIONS

1. The contractor will make certain that all workers are properly and visually identified at all times while on the property.

2. At all times working trades, subcontractors and deliveries must maintain "**Labor Harmony**."

3. Proper conduct and dress codes are to be followed by all members of the contractors and sub-contractors work force. Any violations of this rule will result in dismissal from the building.

4. Contractors and their employees are only allowed to access their construction floors via the freight cars. Use of passenger cars is **prohibited**.

5. Access & Check in Procedures – The normal working hours of work on occupied and non-occupied floors are 7:00 am – 5:00 pm, Monday through Friday. Permission is required to work any other time. After hours admittance to the building shall be governed by Security via a security report matrix. The security report will define all persons permitted to work in the building, their schedule, access area, and nature of the work they are performing. This information is necessary so that Security and in-house trade staffs are aware of the work, any security or safety issues related to it, and how it might impact building systems.

   All contractors and subcontractors must obtain a temporary building contractor badge for each employee before any employee of contractor or subcontractor can work in the building. Each employee of the contractor or subcontractor must display these badges at all times when working in the building. General Contractor is required to request the badges, in advance of project commencement by providing a list of the individuals' names and company they are representing. All access requests shall be submitted to the Building Office at least **48 hours in advance**. All contractors, subcontractors and their employees and/or visitors must access the building via the loading dock or Liberty Street freight entrance. All contractors must check in with the Building Engineers or the Building Office before accessing the construction floor. At the time of check in the contractors must submit the proper identification and/or certifications for any work required during that shift. The engineering staff will provide all Building Office required work permits required for that shift. Upon completion of the work shift the contractor must check out with the building engineers. A check out of the work space will be required before any trades are authorized to leave the building.

   The Building Office will compile the Security Report Matrix each business day by noon. Contractors and vendors are responsible for contacting the Project Manager with the information required to update the list each business day. The Project Manager or General Contractor, with a copy to the Project Manager, shall update his or her Security Report for all personnel working under its direction and submit same to the Building Office by **11:00 am** each business day. **Access for weekends or holidays will be produced on the business day preceding the weekend or holiday and will be distributed by 2:00 PM. Any contractors/subcontractors or scope of work not on the Weekend Security Report will not be permitted in the building.**

   No one will be permanently on the list or carried forward on a daily basis unless approved by the BUILDING OFFICE Manager. Any individual found not in compliance with the procedures outlined above may be escorted from the building.

6. Parking - There will be no contractor parking in the loading dock without prior approval from the Building Office. Vehicles must be removed after loading and unloading. All deliveries or pickups will be limited to 30 minutes. Those staying longer than 30 minutes or not signing in with the dock security are subject to tow at the vehicle owner's expense and/or to banishment from future use of loading dock facilities.

7. Freight Elevators - All workers are required to use the Buildings' freight elevators if an exterior hoist is not available. After-hours deliveries will require scheduling of elevator time at least **48 hours in advance**. Requests for opening the hatch or using the top of the car will require the resident elevator company to operate the car. Requests for overtime use of the elevator will require an operator. Both of these services will result in charges to be paid by the Contractor. All requests must be made to the Building Office on the Elevator Scheduling Request form (see Attachment).

8. Restricted Areas - Workers are prohibited from loitering inside the building or on the sidewalks and plaza surrounding the building. Workers are prohibited from entering any floor or area they are not scheduled and approved to work on.

9. Professional Conduct - All workers are required to conduct themselves in a professional and courteous manner at all times.

   The following activities are strictly prohibited:

   a. The use of offensive or abusive language.
   b. Drinking, or eating in public areas.
   c. Standing in lobbies, except to board an approved freight elevator.
   d. The use of radios in areas which are accessible to or audible to the public.
   e. Stealing.
   f. The consumption, use, possession, distribution or sale of alcoholic beverages, illegal drugs or other mind or behavior altering substances.
   g. Possession of firearms or explosives.
   h. Physical, verbal or any other type of abuse or harassment.

10. Doorways – Fire Stairwell and Freight Lobby doors are not to be propped open or the locks and/or locksets altered in any way. No materials and ladders are to be left in or stored in the stairwells, freight lobbies or any mechanical rooms. Fire stairwells are **NOT** to be used for inter-floor travel.

11. Fireproofing on steel must be replaced if damaged or missing. Contact BUILDING OFFICE Building Management for inspection and approval before ceiling is installed. ***Note: No asbestos in any form is permissible.***

12. All work performed that inconveniences or disturbs other floors must be scheduled before 7:00AM or after 7:00PM business days. The Building Office reserves the right to stop any work during normal working hours that causes a disturbance.

13. Workmen will be assigned to one toilet area that the General Contractor will be responsible for cleaning nd stocking.

14. Any part of the Building damaged during alterations shall be repaired to the Building Office's satisfaction at contractor's expense.

15. The removal of construction debris must be coordinated. The pick-ups have to be completed on the street before 7:00AM or after 7:00PM business days.

16. Smoking Policy – No smoking is allowed anywhere on the building's property, including the plaza and all entry doors and the surrounding sidewalks.

17. Project Signs – No project signs or advertising of any kind will be permitted.

18. Hours of Work - The Tenants' rights to a peaceful and quiet workplace MUST BE THE PRIORITY AT ALL TIMES. The Building Office reserves the right to stop work deemed excessively noisy during work hours. Cutting, chopping, core drilling, shooting of hangers, must all be done after business hours. If work is stopped, it must be rescheduled for completion after hours and any elevator or security services required will be charged to the contractor. Additionally, at times after hours work may need to be rescheduled if it will impact a scheduled event.

19. Access - If a contractor requires afterhours access into an occupied office space to perform work per that Tenant's request, or requires access at any time to an adjoining suite to do work for that Tenant, e.g. install a plumbing drain in the floor which will require access to the space below, the contractor shall schedule and coordinate all work through the Building Office. A security guard is required for access at the Contractor's cost.

20. Electrical and IT Closet Lockouts or Access – Access to electrical and IT closets must be arranged by requesting an engineering escort (MOP Manager) through the Building Office at least two (2) business days in advance. The request must be approved in writing by the Chief Engineer. All closets are to be kept clean, free of excess materials and locked at all times. No tenant equipment is to be installed in the core IT closets including the lampston closet on each floor.

    If a contractor / Project Manager require an electrical panel to be accessed or locked out for maintenance, they shall notify the Chief Engineer in writing at least fourteen (14) business days in advance of the required opening date. This will require an approved MOP prior to the designated Opening date. Upon receiving the Chief Engineer's approval, the contractor shall notify the electrician designated by the Chief Engineer, who at the Project's expense shall install a multi-part lockout adapter and a lock to that equipment. A tag will also be attached to the lockout naming who is performing the work. Upon completion of this work, the contractor shall request the electrician designated by the Chief Engineer to remove the lock and check the work. The Building Office reserves the right to reschedule a lockout request due to previously scheduled work.

21. Corridors – Walls / Doors – If temporary enclosures are required, they shall be constructed of drywall or fire-rated plywood and painted to match the corridors. The enclosure is to have a solid core door with an approved fire rating. Hollow metal or welded metal doorframes must be used for all entrance doors. Doors are to be equipped with a building standard lock set and keyed by the Building Locksmith at the contractor's cost. No padlocks or other locks shall be allowed.

22. Cutting and Patching - The Contractor shall be responsible for all cutting, fitting and patching that may be required to make its and its subcontractors' parts fit together properly.

    The contractor shall not damage or endanger any portion of the work or the work of the Building Office or any separate contractor, by cutting, patching or otherwise altering any work. The contractor shall not cut or otherwise alter the work of the Building Office or any separate contractor except with the written consent of the Building Office and such separate contractor, as the case may be. The contractor shall not withhold from the Building Office, or any separate contractor, contractor's consent to cutting or otherwise altering the work.

    In case sleeves or hangers are not in place in time, or are improperly placed, provided the Plans and Specifications therefore were available, the contractor shall be responsible at the contractor's expense for forming or drilling openings in the work where required and for any patching or corrective work necessary, subject to the approval thereof by the Building Office.

All cutting shall be done promptly and all repairs shall be made as necessary to leave the entire work area in good condition, including all cutting, fitting and drilling of masonry, concrete, metal, wood, plaster, and other materials as specified or required for proper assembly, fabrication, installation and completion of all work under the Contract Documents. This includes any patching that may be necessary.

Saw cutting, coring or trenching of the floor slabs is not permitted without prior written approval from the Building Owner and a written review from the Building Owner's structural engineer. Any costs associated with this review will be borne by the Tenant. Structural members shall not be cut except by prior written authority of the Building Office and/or their structural engineering consultant. Work done contrary to such authority is at the contractor's risk and will be subject to replacement at contractor's sole expense.

Permission to patch any areas or items of work shall not constitute a waiver of the consultant's right to require complete removal and replacement of said areas or items of work, if, in the Owner and/or the consultant's opinion, said patching does not satisfactorily restore quality and appearance of same.
All core walls will be patched to maintain code required rating at all times. Additionally, sufficient provisions must be made at all time to contain dust within construction areas.

23. Clear access in all aisles leading to all emergency stair exits must have a (36") clearance at all times.

24. When emergency exit lights are removed, it is imperative that temporary exit lighting remain above each exit door during any construction phase.

25. Contractors should never cover smoke detectors, this is illegal. All smoke detector bypass must be coordinated with fire command so that the fire safety director on duty can assign a fire watch to the floor during any smoke detector bypass via the Class "E" system. Any costs associated with this work shall be borne by the Tenant.

26. Other - The contractor shall coordinate its activities so that they do not interrupt or interfere with the normal operation of the property or other activities which may be occurring in the building. Contractor must provide walk off tack tile carpeting at freight elevator lobby and at entrance/exit to the work area so as not to track debris from one area of the building to another.

    Keep pipe and duct openings closed by means of plugs or caps; cover all fixtures, equipment and apparatus to protect them against damage, both before and after installation.

All salvageable material and equipment, including but not necessarily limited to, electrical fixtures conduit, wiring, plumbing fixtures, heating units, piping, valves, etc. shall be removed and maintained in as good condition as possible and turned over to the Chief Engineer.

27. Communication with Building Staff –Contractor must provide the Building Office, with a copy to the Chief Engineer, of all material cut sheets, operation/maintenance manuals, warranties, Sign Offs and test and balance reports. Electrical contractors must provide electrical directories for all new electrical panels and updated directories for existing panels.

28. Debris - The contractor at all times shall keep the work area and the site, in a neat and orderly condition and free from accumulation of waste materials or rubbish caused by contractor's operations. The

    Contractor shall not, and shall not allow its subcontractors, to burn any trash at the site. The contractor shall require its subcontractors to clean and maintain their respective portions of the work area as required and as directed by the Building Office. All construction debris removal must be arranged with the Building Office and all waste and/or containers must be removed within one hour of delivery to the street.

    Contractor shall require the subcontractor disposing of or causing the disposal of unsalvageable materials to submit an appropriate certificate to the effect that such unsalvageable material has been disposed of at an approved landfill in full conformity with all applicable Government Requirements (EPA, etc.). If the work area or, to the extent contractor is granted access, the site, is not maintained properly, the Building Office, upon 24 hours' (or such shorter periods as may be specified in any notice from a governmental authority with respect thereto) notice to contractor, may have any accumulations of waste materials or trash removed and charge the cost of such removal to the contractor.

29. Construction Clean Up - In order to make the work fit for occupancy for its intended purpose upon substantial completion, contractor shall remove, as soon as possible, all temporary facilities, waste materials, rubbish, supplies, tools, construction equipment, machinery and surplus materials from and about the work area and surrounding area.

    The contractor shall perform the following final cleaning with respect to portions of the work area, which the Building Office may specify from time to time, and, for all trades, at substantial completion of the work:

    a. Remove temporary protections
    b. Remove grease, mastic adhesives, dust, dirt, stains, fingerprints, labels and other foreign materials from sight-exposed interior and exterior surfaces

c. Wash and shine glazing and mirrors
d. Polish glossy surfaces to a clear shine
e. Ventilating Systems:
    i. Clean permanent filters and replace disposable filters if units were operated during construction.
    ii. Clean ducts, blowers and coils if units were operated during construction.
f. Any areas left unclean will be cleaned by the Building Office at the contractor's expense

30. Damage - Any items damaged by the contractor or its subcontractors shall be replaced and all surfaces which have been scratched or marred shall be refinished at the contractor's expense.

31. Keys - The contractor assumes all responsibility relating to financial losses for keys that have been lost and costs associated with the re-keying of areas accessible by any keys issued.

    The contractor shall return all keys at the close of each day to the Engineering Department or will assume all costs related to the re-keying of all areas accessible by keys issued.

    All doors **must** be master keyed. All locks must be keyed by the building locksmith.

    General Contractor (GC) / Construction Manager (CM) to submit all door hardware schedule(s) and construction plan(s) to Building Management for review, comment and final approval. Upon submittal, GC/CM to allow 14 days for Building Management to process and review. Coordination with building locksmith is required and all specified building hardware is to be keyed to building standards, no exceptions will be made. Building standard hardware is to be Sargent mortise cylinder with the building assigned keyway. Contractor is to furnish and install all cylinders with three (3) keys per door opening.

32. Insurance - The contractor and subcontractors shall secure, pay for and maintain insurance in accordance with BUILDING OFFICE's requirements. Prior to the commencement of work, the contractor and all subcontractors shall furnish the Building Office with a current Certificate of Insurance evidencing said insurance. See Attachment for requirements and contact the Building Office at (646) 779-3000 for further details.

33. Licenses/Permits - All vendors, contractors and architects shall obtain, at their own cost, all licenses (including professional licenses), permits, certificates and authorization necessary to do business in all jurisdictions where any part of the work is to be performed. A copy of said permits, licenses, certifications and authorizations will be provided to the Building Office prior to starting any work.

34. Working Trades – At all times working trades, subcontractors and deliveries must maintain "**Labor Harmony**."

35. Test & Balance – Testing and balancing is required for all new and retrofit mechanical systems. Contractor name must be submitted to Chief Engineer at start of project for approval. Any costs associated will be borne by the Tenant.

36. Temperature Control – The building designated controls vendor, currently Siemens, must be used exclusively for all temperature control work. Contractor is responsible for costs to have Siemens test the system as necessary upon completion of the work to verify integrity of the system and reporting back to the BMS. Any costs to repair same will be the responsibility of the Tenant build out costs.

37. Life Safety – The building designated fire alarm vendor, currently Fire Craft, must be used exclusively for all modification and testing of the Class E life safety system. Contractor is responsible for costs to have Fire Craft test and repair the system as necessary upon completion of the work to verify integrity of the system. Contractor shall submit the name of the proposed fire sprinkler and stand pipe systems subcontractor for pre-approval prior to the start of the job.

PROTECTION

1. All walls, floors and stairs doors in public areas subject to construction traffic shall be properly protected. Contractors will be responsible for the repair of any damage to the public common areas caused by the contractor during construction. All common area finishes including carpets, walls, ceilings, doors and door frames must be returned to the condition that existed prior to the start of construction. It is recommended that an inspection of the existing conditions and documentation of these conditions be completed prior to the start of the work. Plastic runners or Masonite must be laid and walk off mats must be installed inside entries prior to the start of the work

2. Disconnect electric power before demolition work commences. Install temporary lighting after MOP has been approved.

3. Protect radiator and induction units against dirt and dust. Induction units filters (screens) must be cleaned when construction work is finished.

4. Install shoe-wiping mats and/or adhesive sticky mats at all openings between public and construction areas, and maintain them as needed.

5. Dollies, hand trucks, and contractor's lock boxes must have rubber wheels and bumpers.

6. Remove all construction debris and excess materials.

7. Any penetration through a wall or floor must be completely fire safe to Chief Engineer's satisfaction.

8. All mechanical/electrical rooms and Tele-com/Lamston closets are to be restored to conditions prior to commencement of work.

ELECTRICAL

1. General Contractor and Electrical vendor will submit MOPs before any and all work will start in the building**.**

2. Contact the Building Chief Engineer before commencing work and provide the Building Office with "Permit to Perform Electrical Work" from the Bureau of Electrical control.

3. Core boring of concrete must be pre-approved by the Building Office and will only be permitted to be performed before 7:00AM and after 7:00PM business days or on weekends.

4. Tag all branch circuit and feeder wiring at each box or panel. Tag shall indicate circuit numbers. A complete panel directory must be updated in each panel.

5. Clean electric closets of all debris and excess material. Reinstall panel covers and trims. Seal holes in slabs or walls with approved fire rated materials.

6. Remove wiring abandoned in floor ducts and ceilings including telephone wiring (back to source/riser). Vacuum all ducts and cap open floor outlets.

7. Provide the Building Office with final "Certificate of Approval" from the Bureau of Electrical Control.

8. Conference Rooms, Copy Rooms, Storage Rooms, Pantries, File Rooms, Library's, Private Restrooms and all perimeter offices are to have light sensors and wall switches.

9. All floor lighting will be put on the Building's Monitoring System or a timer installed, all at Tenant's cost.

10. Manual lighting override switches will be placed on the wall outside of the electric closets.

11. Provide occupancy sensors, vacancy sensors and daylight dimming controls for all lighting as required by NYC Energy Code.

12. All exposed circuit wiring shall be in EMT with steel set screw fittings only. No die cast fittings allowed.

13. Where permitted by code, type MC and AC cables, with insulated ground conductor shall be permitted where concealed and not subject to physical damage.

14. All Circuit wiring in EMT with steel set screw fittings only. No die cast fittings or BX allowed.

15. All circuit breakers to be bolt-on. No stab lock allowed.

16. All finished device plates to be P touched with panel and circuit designation.

17. All ECB testing should be scheduled after 7pm on weekdays.

18. All electrical installations shall be in compliance with applicable provisions of the New York City Electrical Code, the New York State Energy Code.

19. All transformers shall be high efficiency type and shall meet 2016 DOE requirements (TP1).

20. A listing of all proposed electrical loads (kW), by type (lighting, mechanical equipment, general power and UPS equipment) shall be provided for review and approval by the Owner's consulting engineers, currently Jaros, Baum & Bolles.

21. Service upgrades or the addition of any new upsized electrical main panels due to floor densification which would increase the Watts per Sq. Ft. (wpsf) must be reviewed and approved by the Owner's consulting engineers, currently Jaros, Baum & Bolles, at T e n a n t ' s expense, to ensure proper capacities are maintained along with originally designed redundancies. This would include review of incoming services, switchgear, bus duct risers and associated panels. To be paid for by the project. Third ("3rd") party testing of new equipment is also required and all costs associated will be borne by the Tenant.

22. Any changes or new connections to bus riser or feeders upstream of local power panels need to be tested by 3rd party vendor before placing into service.

PLUMBING

1. New plumbing to be copper pipe and shall originate on the same floor from the nearest wet column with proper access for maintenance.

2. New isolation (ball valves) valves to be installed & tagged, keeping building isolation valves if possible

3. All drain and vent lines in rest rooms to be replaced from deck to deck.

4. New Pressure Reducing Valves (PRV) to be installed replacing the existing in all restrooms, pantries or water coolers.

5. All plumbing fixtures shall be Toto (sinks, water closets and urinals). Wall-mounted flushometer toilet, mod # CT708EV(G) for 1.28 gpf and mod # SC534 seat, with EcoPower flush valve mod # TET1LN32#CP, Toto mod # UT105UVG for 0.125 gpf urinals with mod#TEU2UN11#SS EcoPower Flushometer Valve, and Toto Helix EcoPower Faucet mod # TEC5LC10 for sinks or approved equals. Are we changing to Sloan after the pressure problems on 30?

6. Concealed open indirect drain traps not permitted.

7. Insulate water supply pipes to prevent sweating or heat loss.

8. Waste line shall be properly pitched to prevent “trapped” water.

9. Install waste line connections with long turn or 45 degrees “Y” fittings.

10. Retain existing clean-out connections and provide clean-out connection at new fittings.

11. All holes bored in slab or chopped in walls will be sealed with approved material and made watertight.

12. All abandoned piping (water, waste and vent lines) must be removed up to the building main.

13. Water sources generated from pantries, kitchens, restrooms, HVAC equipment, etc. cannot be above critical areas such as Data Centers, LAN/ UPS/ PDU Rooms, etc.

14. Water sources in pantries coming from the buildings water source to the equipment (water coolers, coffee makers, ice machines) etc.: must be either copper pipe or copper tubing. NO poly tubing will be permitted.

15. Pantries, kitchens, with hot water storage tanks must be in a pan with a leak detector and a solenoid shut off valve, restrooms, mechanical equipment rooms, etc. must have floor drains and also a leak detector with a solenoid shut off valve, at contractor’s cost.

16. Pantries to have a floor drain in the room.

17. All Hydrostatics and Air Balancing tests must be witnessed and signed off by building engineers.

18. Tenant must install new sub meter for any water used other than restrooms. The type of meter must be pre-approved by the Building Office and tied into the Building’s meter network.

HEATING, VENTILATION, AIR CONDITIONING

1. Install/repair fire-smoke dampers in ductwork where ducts penetrate demising walls.

2. Piping which penetrated demising walls shall be installed with an appropriate size sleeve and sleeve properly insulate with fire resistant materials.

3. Install vibration eliminators on HVAC equipment.

4. Remove abandoned ductwork, conduit or piping from hung ceiling areas.

5. Construct curb around floor mounted air conditioner units with proper waterproofing method employed. All units to have a leak detector and solenoid shut off valve. **Leak detection must report back to the base building BMS system and will be the responsibility of the tenant to provide through the building designated controls vendor, currently Siemens.**

6. Install isolation dampers on main air supply and return ductwork and tie controls to building BMS system. Vendor will also supply construction filters on return air stubs prior to demolition and will be responsible for maintaining said filters throughout the construction phase of the project.

7. V.A.V boxes can be either Trane model VARITRANE or Titus model DESV and shall not impose more than 0.2 inch w.g static pressure on the building systems. **These units must report back to the base building BMS system and will be the responsibility of the tenant to provide through the building designated controls vendor, currently Siemens.**

8. All HVAC controls to be BACnet DDC type and all controls for the perimeter induction units shall be contained within the individual units. These controls must report back to the base building BMS system and will be the responsibility of the tenant to provide through the building designated controls vendor, currently Siemens.

9. All work associated with induction unit additions or replacements and/or thermostatic rezoning must be approved by the building office prior to commencement of work and must be allowed 14 days for approval. Once approved all costs associated with this work will be the responsibility of the tenant. Tenant must seal and protect all induction units prior to demolition and/or construction. All units to be cleaned and filters replaced upon completion of construction as well. All furniture and fixtures shall not be placed closer than 12 inches from the induction units.

10. Interior ductwork shall be tested for leakage per SCACNA standards and witnessed by a building representative.

11. All hydrostatic and air balancing tests must be witnessed and signed off on by the building engineers.

12. Interior air balancing report and a perimeter control survey must be done and reports given to the Building Office.

13. All air balancing will be done on off hours unless otherwise instructed by the Building Office/Engineering Dept.

14. Tenant shall employ the services of the base building water treatment contractor to flush clean and fill any tenant installed HVAC piping systems prior to connection to the base building system

AUXILIARY AIR CONDITIONING UNITS

1. Location of air-cooled condensing equipment must be approved by Building Office.

2. Insulate duct work and condensate lines to prevent sweating.

3. Discharge condensate into sink area or floor drain as approved by Chief Engineer.

4. Install proper isolation pads or vibration eliminators on supplementary air conditioning units and associated pumps.

5. All piping/fittings for a/c units must pass a hydrostatic test, pressures to be determined by floor location in building. This will be 1.5 (1 ½) times the standing pressure or 250lbs (whichever is greater) for 2 hours.

6. All piping/fittings will be chemically cleaned.

7. All piping/fittings connections must be welded or brazed – no soft soldered joints.

8. All units will be placed in a pan with a leak detector which will report back to the building BMS system at the sole cost of the tenant.

9. All units will have solenoid valves on both the supply and return condenser water lines that will shut the unit down upon a leak being detected.

10. Units shall be selected for 88 degrees EWT at a 15 degrees delta T. Units shall be capable of accepting 45 degree entering water temperature and shall be provided with two-way condenser water control valves arranged to close when the unit is off.

11. Condenser water serving units above the 11th floor shall be provided from the building condenser water system via new wet taps into the existing risers. The condenser water is pumped with approximately 20 psi differential at the risers.

12. Chilled water serving units below the 11th floor shall be provided from the building chilled water system via wet taps into the existing risers. This chilled water is pumped with approximately 25 psi differential at the risers.

13. Addition of any new auxiliary units connected to either CHW or CW must be reviewed and approved by JB&B Engineering to ensure proper capacities are maintained along with originally designed redundancies. All associated costs to be borne by the tenant or General Contractor.

14. Tenant is responsible to furnish and install sub-meters for supplementary HVAC units which shall be tied into the building's meter network at the cost of the tenant.

FIRE PROTECTION:

1. Sprinkler system shall not be interrupted or shutdown without the Chief Engineer's permission. FSR required 24 hours in advance.

2. All fire dampers and isolation dampers must remain or be replaced. Fire dampers **cannot** be Ruskin Series MA-200 due to manufacturer recall.

3. All device Class E work must be performed with the building's Class E vendor, presently Firecraft. Work must be performed after 7:00PM and before 7:00AM business days or on weekends; **and** only after securing proper authorization from the Building Office. A minimum five (5) business day's advance notice to the Building Office is required. A Building Engines work request must be placed for a fireguard/fire watch and a charge for a fire watch will apply to the tenant or GC. All sprinkler and temporary lines to be hydrostatic tested. (Sample of the "HOT Work Permit" will be attached)

4. Tenant must coordinate all modification to the fire alarm system with the building's fire alarm vendor to confirm adequate system capacities at the data gathering points (DGP's) and the notification device power supplies.

5. All fire alarm system modifications shall be reviewed, inspected and approved by the FDNY.

6. Exit lights must be posted above all exit doors and they must be illuminated.

7. All alteration works to existing sprinkler system as shown on the plan shall be done after hours unless signed approval is granted for other time periods by the Building Office.

8. Sprinkler heads shall be as underwriter's laboratories listed approved of ordinary degree rating except as otherwise noted of 165ºF and shall be cast brass fusible link spray type with ½" discharge orifice.

9. Concealed sprinkler heads as indicated on the drawing shall be reliable model G4 concealed with white cover plate (N.Y.C.B.S. & A/No. 587-75-SA).

10. Sprinkler cover plates shall be provided to existing heads which had none at tenants cost.

11. Hangers, brackets, beam clamps, clips, inserts and mounting devices to support piping shall be installed in accordance with the NFPA Pamphlet No. 13.

12. Hangers shall be secured directly to the building structure in an approved manner.

13. A temporary loop system will be installed before deactivating the existing sprinkler system on the floor. Contact the building's Chief Engineer and Fire Safety Director before disassembling the existing system. All floors that will be occupied or partially occupied during construction must maintain full sprinkler coverage at all times. Temporary loops are not permitted on occupied or partially occupied floors unless approved by the FDNY.

14. All welding, cutting, soldering, flame or smoke producing work will not commence until the building's Fire Command Station Operator and Chief Engineer have been informed and have verified the appropriate fire alarm points/zones are locked out – Including sprinkler work. At the end of the work day, the points/zones must be restored and a fire watch should remain on site for a period of 4 hours after work has been completed, at the cost of Contractor.

15. All welding shall be performed after 7pm weekdays or on weekends. Welding shall be performed only by persons having a valid New Certificate of Fitness for welding. During the welding operations there must be a person, in the capacity of fire watch, equipped with a fire extinguisher, smoke eater and protective blankets.

16. All device Class E work must be performed with the building's Class E vendor, currently Firecraft.

17. The entire sprinkler system shall be pressure tested immediately following the completion of alteration works. Air test shall be conducted at 50 psi prior to the hydrostatic test to assure that the piping system is tight. Any leakage found shall be fixed and system pressure test shall be repeated after the repair has been made. The construction manager shall give at least 48 hours' notice of a forthcoming pressure test to the building office.

18. A hydrostatic test must be done and overseen by the building's engineering department of the newly installed sprinkler piping and a report must be given to the building office. **This test will be for 2 hours at a pressure of 250 lbs. or 1.5 (1 ½) times normal pressure, whichever is greater and must have zero tolerance. Any leakage found shall be fixed and system pressure test shall be repeated.** All testing and repairs are the responsibility of the tenant. **NOTE: 3 heads added or relocated requires just a working pressure test, 4 – 9 heads requires just an air test and 10 or more heads requires a hydrostatic test.**

19. All manual pull stations must have an approved protective cover.

20. All floors must have the approved glow in the dark signs that comply with Local Law 26 and building standard. Signs are to include stair location plan signs, life safety emergency team ID signs (photo board), emergency contact list signs, fire stair door signs (occupancy side) and directional orientation signs.

21. Fire extinguishers are to be furnished and installed in all copy rooms, pantries, kitchens, etc. Tenant is responsible for testing and charging extinguishers as required by NYFD.

22. Fire stopping all floor penetrations must be sealed with a fire barrier product.

23. Temporary manual pull stations must be provided and relocated off the core walls to protect from damage during construction.

24. All oxygen/acetylene tanks are to be removed from the building after each use, Tanks are not permitted to be stored in the building after contractors have left the building. Contractor must remove from the building on a daily basis via the freight elevators. FDNY will be contacted for removal if these tanks are not removed and incur possible summons to the contractor, NO EXCEPTIONS!

Concealed sprinkler heads as indicated on the drawing shall be reliable model G4 concealed, with white cover plate (N.Y.C. B.S. & A/ No. 587-75-SA).

INFORMATION TECHNOLOGY:

1. Core boring of concrete for low voltage riser cabling sleeves and conduit must be pre-approved by the Building Office and will only be permitted to be performed before 7:00am and after 7:00pm on business days or on weekends.

2. All new low voltage wiring and/or conduit risers shall be routed within the Tenant's demised premises. Routing of such equipment in spaces, core areas, central MER's, etc., which are not part of the Tenant's demised space, must be approved in writing by the landlord. The placement of any Tenant equipment (or carrier related support equipment for the Tenant) in spaces, core areas, central MER's, etc., which are not part of the Tenant's demised space is not permitted.

3. All risers that are permitted by the Landlord to be routed outside of the Tenant demised premises must be positioned so as to not interfere with access to existing Landlord or other tenant systems, nor to be an impediment to the use of un-used equipment and/or riser space that could be used in the future.

4. The use of the perimeter induction system as a wire way is prohibited. Use of the system for tenant low voltage system distribution must be obtained in writing from the Landlord and may require that the Tenant demonstrate (via the induction unit vendor and/or building engineers) that the operation of this system is not adversely effected by the Tenant distribution.

5. Clean all telephone and/or technology riser closets of all debris and excess material. All holes in slabs or walls are to be sealed with approved fire rated materials.

6. Remove all low voltage wiring that has been abandoned in floor ducts and ceilings back to source. Tenant must vacuum all ducts and cap open floor outlets as well.

7. All low voltage cabling installation work shall be performed by an approved base building contractor.

8. All low voltage wiring installation shall be in compliance with applicable provisions of the New York City Electrical Code.

ANTENNA SYSTEMS:

1. All Tenant antenna systems must be approved for use by Landlord and must only provide RF coverage within Tenant's demised premises.

2. Where Landlord believes that a Tenant's antenna system is interfering with a base building or another tenant's wireless systems, the Tenant will be required to turn "off" their wireless system until a Landlord accepted RF Engineer can demonstrate (on behalf of the Tenant) that the Tenant's system is not the cause of interference and any other system problem.

3. Core boring of concrete for low voltage riser cabling sleeves and conduit must be pre-approved by the building office and will only be permitted to be performed before 7:00am and after 7:00pm business days or on weekends.

4. All new Tenant low voltage wiring and/or conduit risers shall be routed within the Tenant's demised premises. Routing of such equipment or the placement of any Tenant (or carrier related support equipment for the Tenant) in spaces, core areas, central NER's etc., which are not part of the Tenant's demised space must be approved in writing from the Landlord.

5. All antenna system risers that are permitted by the Landlord to be routed outside of the Tenant demised premises must be positioned so as to not interfere with access to existing Landlord or other tenant systems nor to be an impediment to the use of un-used equipment and/or riser space that could be utilized in the future.

6. All antenna system installation work shall be performed by an approved base building contractor.

7. All antenna system wiring and equipment installation shall be in compliance with applicable provisions of the New York City Electrical Code.

FURNITURE/ FURNISHINGS:

1. Glass doors must have "distraction markings" installed.

2. Entrance glass doors must have directional indicators ("PUSH" and "PULL").

3. General Contractor/ Construction Manager to submit all door hardware schedule(s) and construction plan(s) to Building Management for review, comment and final approval. Coordination with building Locksmith is required. All specified door hardware is to be keyed per building standards. No exceptions will be made. Building Standard hardware includes Sargent mortise cylinders with the building Locksmith assigned Keyway. Contractor is to furnish and install all cylinder(s) with three (3) Keys per door opening.

4. All furniture must have a minimum of 12 inches of clearance from the face of the convector/ window units to allow for maintenance.

5. All walls built over convector/ window units must have a reveal large enough to allow for the removal of covers for maintenance.

ADVANCE APPROVAL REQUIREMENTS

1. Deliveries - All major deliveries requiring the use of a freight elevator must be scheduled through the Building Office at least 7 days in advance. Such major deliveries requiring dedicated freight elevator time will be scheduled after normal business hours on a "first come-first serve" basis. (Normal business hours are 7:00 a.m. - 5:00 p.m., weekdays). No materials may be delivered through the main entrances of the buildings. Contractors are required to furnish their own lift trucks and labor. All deliveries must be made through the Liberty Street Entrance.

   All deliveries shall enter the building via the loading dock area on Liberty Street. The use of elevator operators outside their standard operating hours will be chargeable to the Contractor. Contractor must submit to the Building Office a schedule of dates of any materials being shipped or received to the building. General Contractor will submit MSDS on all materials prior to delivery into the building.

2. Freight Elevator Scheduling - Dedicated freight elevator service may be scheduled in accordance with the following:

   a. 48 Hours in advance of the scheduled date and time, request will be submitted to the Building Office by Contractor and will contain the requested day and time, the location and description of work.

3. Interruptions of Utilities, Fire Alarm & Sprinkler System – The interruption of utilities (electricity, water, plumbing, HVAC) or tenant services is not permitted without advance coordination and written approval of the Chief Engineer. The fire annunciation system may be shut down for certain work (soldering, welding, etc.) with written permission of the Chief Engineer and Fire Safety Director. All utilities and tenant services must be put back in service at the end of each day.

4. Sprinkler System Shut Downs – A shut down or drain down of the sprinkler systems will be required for all work above the ceiling or temporary loop. All sprinkler shut downs or drain down will require fire watch. Fourteen 48 Hours advance written notice is needed for all shutdowns.

5. Any work affecting the Class “E”, sprinkler or sprinkler systems must be performed after 7:00PM and before 7:00AM business days or on weekends; **and** only after securing proper authorization from the Building Office. A minimum 24-hour advance notice to the Building Office is required. A charge for a fire watch will apply. All sprinkler and temporary lines to be hydrostatic tested. (Sample of the “HOT Work Permit” will be attached). If the possibility exists that a Class “E” system device may be falsely triggered, the Building Office must be notified. Any costs incurred due to falsely tripped devices will be borne by the contractor.

6. Hot Work (Cutting, Brazing, Welding and Grinding) – All hot work to be done will be coordinated through the Fire Safety Manager **and** will only be allowed to be done after business hours and/or on weekends. A permit system is in place and all instructions listed on the permit **MUST BE FOLLOWED**. The permit issued by the Fire Safety Manager is good for one day's work and must be returned at the end of the day.

7. The contractor shall engage the Building's Fire Guards to provide a fire watch during all open flame activities. This shall be a second person equipped with not less than a ten pound dry chemical or a two and one half (2 ½) gallon water fire extinguisher and protective blankets. In computer areas, not less than a ten (10) pound Carbon Dioxide fire extinguisher shall be provided.

    a. A welding and or burning permit must be given on a daily basis to the Fire Safety Office on the Lobby level for any welding or cutting to be done that night. The Fire Safety office (646) 779-3064 is to be contacted prior to the start of welding **and** when finished.

    b. Building System Shut Down - If a Contractor requires a mechanical/plumbing/fire protection system shut down and/or electrical lockout to complete work on the building's system, or tenant's system, he must submit a completed **MOP** in advance, for approval by the Chief Engineer and Building Office. Lead times are based on risk and levels of impact associated with the work and can be up to 60 days. Upon the written approval, the work can proceed. The Building Office reserves the right to reject and reschedule the request if it conflicts with other previously scheduled work. The Project Manager will be advised of approvals or disapprovals via email. However, Contractors are required to contact the Engineering Department at (646) 779-3059 prior to the start of work to confirm the system is shut down. The shut down costs will be charged to the specific tenant.

8. Contractor shall submit the following information to the Building Management office:

    a. Certificate of Insurance for all trades. (Compliant with BUILDING OFFICE requirements) (See Appendix 2 for Sample COI)
    b. List of subcontractors for approval.
    c. Copy of the New York City Building Notice Number. (Permits)
    d. Copies of all Certificates (i.e. Department of Water, Supply, Gas, Electric, and fire Underwriters).
    e. Within thirty (30) days of a floor completion, the General Contractor will submit a complete set of "As Built" drawings, CADD's, and all applicable permits and sign-offs to the Building Office.

DELIVERY AND TRANSPORTATION OF MATERIALS

1. The Building Office will provide no materials, supplies, tools, ladders or equipment. The contractor must provide all such items.

2. All contractors/subcontractors will use rubber wheeled carts when moving material through the Building or removing trash from the Building.

3. Construction materials shall be delivered to the job in proper containers and stored in the designated work area. Materials must not be stored in public areas. (I.e. freight lobbies, loading platforms and public corridors).
4. Fire exits shall be kept clear and accessible at all times.
5. All contractors shall keep and maintain a fire extinguishers on construction site at all times. All fire extinguishers must be supplied by the contractors. ABC (All Purpose) type extinguishers shall be used.

6. The General Contractor/subcontractor may only use assigned freight elevators and must allow time for normal day-to-day business to continue without any disruption.

7. The General Contactor/subcontractor is responsible for vacuuming all debris from tracks and landing for freight elevators and dock levelers. **Sweeping debris into elevator hoist ways or under levelers is not acceptable and may cause the equipment to shut down and/or malfunction.** The contractor assumes all responsibility relating to financial losses for repairs to elevator equipment and levelers related to the failure to adhere to this provision.

8. No materials will be stored outside the assigned area. The contractor and subcontractors are responsible for keeping access to the storage area free and clear.

9. All loads onto freight elevators within weight restrictions of the individual elevator centered in cab and loaded slowly to prevent freight car from over-adjusting and potentially malfunctioning and/or shutting down. Weight restrictions can be obtained from the Building Office.

10. All labors, contractors, subcontractors, etc. loading material and/or equipment onto the freight cars must comply with the instructions of the elevator operator for loading onto and off of the freight cars – at all times.

All contractors and subcontractors performing work at 28 Liberty Street are required to forward a Certificate of Insurance meeting the guidelines on the sample certificate of insurance that follows. A copy must be sent via email to the Building Office at **28libertybuildingoffice@CBRE.com** before any work can commence.

ELEVATOR SCHEDULING REQUEST

Original Request

Requestor Name: _____

Tenant / Contractor Name: _____

Original Request Date:_____ Revised: _____

Project Number:_____ Work Order Number: _____

Subcontractor: _____

Date Requested: _____

Time Requested: _____

Materials Being Delivered:

Office of the Buildings' Approval:_____ Security: _____

Advanced notification and approval required

28 LIBERTY STREET
CONSTRUCTION/ALTERATION ACTIVITY CLASS E REQUIREMENTS

ACTIVITY	CLASS E OFFLINE	SMOKES OFFLINE	FIRE WATCH*	FIRE GUARD*
Sprinkler or Standpipe drain down	Yes	Yes	Yes	Yes
Burning, welding, cutting, sweating, brazing, grinding**	Yes	Yes	Yes	Yes
Demolition	Yes	Yes	Yes	No
Construction	Yes	Yes	No	No
Chopping	Yes	Yes	No	No
Drilling	Yes	Yes	No	No
Spraying	Yes	Yes	No	No
Sanding	Yes	Yes	No	No
Pre-action system off-line	Yes	Yes	Yes	Yes

*Fire Watch must be provided by contracting with the Building's contractor and will be charged to General Contractor.

** Hot Work Permit must be provided.

All guidelines indicated will be reviewed on a case by case basis. The Building Office reserves the right to request additional protection as they feel fit.

WORK PERMIT

For "Sensitive" Or "Potentially Hazardous" Work

(POST "COPY" IN WORK AREA)

PART #1: General Information (*To Be Completed by Contractor Performing Work)*

DATE:_____START TIME:_____EST. END TIME:_____

LOCATION OF WORK:

BRIEF SCOPE OF WORK:_____

_____

_____

PERSON PERFORMING WORK:_____COMPANY:_____

CONTACT NO: _____

PART #2: Work Area Inspection *(To Be Completed By Property Manager or Designated Representative)*

- Burning, cutting and welding equipment is in good repair.
- Floor has been swept clean of loose combustibles within 35 feet radius of work area.
- Walls, floor openings, and readily ignitable combustibles within 35 foot radius of work area-which may be subjected to ignition sources, have been covered.
- Combustibles have been removed away from opposite sides of walls or ceiling.
- A fire extinguisher, in good working order and properly tagged, is at the work site.
- A Fire Watch is provided during and four (4) hours after work completion.
- Special hazards/precautions/safety needs required?_____
- Possible affected areas/personnel have been notified?_____
- Are all smoke detectors in work area capped off and Security/Central Station/Fire Safety Director notified?_____
- Will work cause excessive or noticeable dust, smoke or fumes?_____

Nearest Fire Alarm Pull Station:_____Emergency Notification#:_____

PLEASE NOTE: Re-inspection whenever work is discontinued for more than one hour.

The work area and the work to be performed for this permit have been discussed and inspected by the following people, prior to the start of the work:

1. Person Performing Work:_____ Date:_____

   (*Signature)*

2. Fire Watch:_____ Date:_____

   (Signature)

3. Person Approving Work Permit:_____ Date:_____

   (*Signature)*

PART #3: Final Check – Job Completion *(To Be Completed By Person Issuing Permit)*

- Work areas and all adjacent areas inspected? -No evidence of fire? -Caps removed from detectors?

-Facilities/Security/Central Station/Fire Safety Director notified of job completion? -All equipment returned?

_____ _____

Signature of Person Completing Final Inspection ***Time Inspected***

Permit Limitation: This work permit authorizes a single work activity and is valid on the calendar day for which it is issued. Permit to be maintained in Facilities Work Permit Log files. Copy to Fire Life Safety Director.

INSURANCE REQUIREMENTS

ACORD™ **CERTIFICATE OF LIABILITY INSURANCE** DATE (MM/DD/YY)

PRODUCER

Producer

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

Insured (Contractor), Address

INSURER A	Insurer A
INSURER B	Insurer B
INSURER C	
INSURER D	
INSURER E	

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

1

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	2
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR X Waiver of Subrogation GENERAL AGGREGATE LIMIT APPLIES PER ☐ POLICY ☐ PROJECT ☐ LOC	XXXXXXXXXXXX	XX/XX/XXXX	XX/XX/XXXX	EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS-COMP/OP AGG	$ 3,000,000 $ 100,000 $ 10,000 $ 3,000,000 $ 3,000,000 $ 3,000,000
	Waiver can be stated in the description box below.					
A	AUTOMOBILE LIABILITY X ANY AUTO X ALL OWNED AUTOS X SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS X Waiver of Subrogation	XXXXXXXXXXXX	XX/XX/XXXX	XX/XX/XXXX	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 3,000,000 $ $ $
	Waiver can be stated in the description box below.					
	COMMERCIAL BLANKET BOND X				BLANKET BOND	$
A	EXCESS LIABILITY X OCCUR ☐ CLAIMS MADE ☐ DEDUCTIBLE ☐ RETENTION $	XXXXXXXXXXXX	XX/XX/XXXX	XX/XX/XXXX	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $
B	WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY X	XXXXXXXXXXXX	XX/XX/XXXX	XX/XX/XXXX	X WC STATU-TORY LIMITS ☐ OTHER E.L. EACH ACCIDENT E.L.DISEASE-EA EMPLOYEE E.L.DISEASE-POLICY LIMIT	 $ 3,000,000 $ 3,000,000 $ 3,000,000
	Waiver can be stated in the description box below.					
	OTHER					

3

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIALPROVISIONS

4 "CBRE, Inc., Summit Glory, LLC, Fosun Property Holdings Limited and its subsidiaries, directors, officers, employees, and agents, as their interest may appear," shall be named as additional insureds with regard to Commercial General Liability and Automobile Liability Insurance. The Commercial General Liability Policy, Automobile Liability Policy, and Worker's Compensation/Employer's Liability Policy contain a waiver of subrogation against the party listed as additional insured, except to the extent any of such parties is finally determined to be solely liable (or the waiver of subrogation can be shown under the "type of insurance" section of the certificate.) Contractor's insurance shall be primary and all insurance carried by CBRE, Inc., Summit Glory, LLC and Fosun Property Holdings Limited is strictly excess and secondary insurance and shall not contribute with Contractor's insurance for Contractor's insurance shall be primary and non-contributory to CBRE, Inc., Summit Glory, LLC and Fosun Property Holdings Limited's insurance.

5

CERTIFICATE HOLDER/ADDITIONAL INSURED, INSURED LETTER

6 Summit Glory LLC,
CBRE, Inc. and all related entities
28 Liberty Street
New York, NY 10005

CANCELLATION

7 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

A "good" or "acceptable" COI must have the following:

1. Policies are in effect (i.e., are not expired).
2. Limits meet or exceed Agreement. The Employer's Liability Insurance, Commercial Liability Insurance, & Auto Liability Insurance requirements may be satisfied through an Umbrella/Excess Liability Policy.
3. Additional insured phrase matches the Sample COI exactly.
4. Certifies Waiver of Subrogation. (Either of the 2 ways shown on the Sample COI.)
5. Certifies Primary Non-Contributory. (Either of the 2 ways shown on the Sample COI.)
6. CBRE Named as Certificate Holder
7. 30-Day Cancellation (we will allow 10-day cancel for non-payment.)

SPRINKLER DRAIN DOWN REQUEST

28 Liberty Street

Must be approved 2 business days prior to drain down

Start Date:	**Time Start:**		**End Date:**	**End Time:**	
Project:			**Location:**		
Project Manager:			**Cost Center:**		
Telephone # :			**Cell Phone #:**		

We will require a drain down of (please list the floors and check off the box that pertains to this work).

Floor	Fire Sprinkler	Smoke Heads	Fire Standpipe	Scope	Other

Comments :			
Contractor		**Telephone #:**	
Contractor Name		**Cell Phone #:**	
Building Office Approval :		**Date:**	
Chief Engineer Approval:		**Date:**	
Fire Safety Director Approval		**Date:**	
Contractor Approval:			
Low Rise Freight Car		**High Rise Freight Car**	

☐ Building Office ☐ Engineering ☐ Fire Safety ☐ Contractor ☐ Freight

☐ Security ☐ Project Manager ☐ Project files ☐ other

Appendix 1: Building Information

Building Information

FREIGHT ELEVATORS:

28 Liberty Street is serviced with three (3) freight elevators that run from level 5B to the 60th floor; and, are available from 7:00am to 6:00pm, Monday to Friday. After hour freight service request shall be arranged 7 days in advance. The freight elevator ramp is located through the double doors on Liberty Street (between William and Nassau Streets).

The sizes of the freight elevator cars at 28 Liberty Street are:

#35 Car	Car Height	10 ft 4 in	Car Depth	7 ft 4 1/2 in
	Car Width	5 ft 4 1/2 in	Door Height	8 ft 8 in
	Door Width	3 ft 6 in	Capacity	3,500 pounds
#36 Car	Car Height	10 ft 4 in	Car Depth	7 ft 4 1/2 in
	Car Width	5 ft 10 1/2 in	Door Height	8 ft 8 in
	Door Width	4 feet	Capacity	4,000 pounds
#37 Car	Car Height	10 ft 4 in	Car Depth	7 ft 4 1/2 in
	Car Width	7 ft 1/2 in	Door Height	8 ft 8 in
	Door Width	5 ft	Capacity	5,000 pounds

LOADING DOCK ENTRANCE:

The loading dock entrance clearance (Liberty Street) is 10’ 6”. Clearance ***is mandatory***.

No trucks may idle with engines running while in the dock.

The Loading dock hours are from 7:00 AM to 6:00 PM, Monday to Friday. All major deliveries shall be arranged with the Building Office. Any after hour deliveries shall be arranged 7 days in advance.

ARCHITECTURAL / STRUCTURAL

Basic Construction:	Structural steel
Building Lobby:	Glass, travertine, Juparana
Curtain Wall:	Aluminum exterior panels with tinted non-reflective blue/green glazing 1/4" thick
Column Spacing:	29 feet on center for exterior columns, 31 feet on center for east and west end interior
Floor Load:	50#/FT2
Structural Fireproofing:	Spray on A.C.M.

Floor System(s)

Raised Floor:	Yes with carpet tiles
Slab to Slab Height:	12 ft.; 59, 60 and MER are 15 ft.
Building Standard Interior Partitions:	Metal stud with gypsum board, Hermann Miller, Hausman
Building Standard Ceilings:	Armstrong acoustical 14.5" x 14.5", 12" x 12" and 2 x 2.

Air Conditioning System(s)

Supplemental Systems Type:	Condenser water
H.V.A.C. Control Systems Type:	Electric, Pneumatic
Manufacturer:	Siemens

B.M.S.:	Yes
Manufacturer:	Siemens

FIRE LIFE SAFETY SYSTEMS

Sprinklers:	All areas sprinklered
Standpipes:	Located in stairs SE1 and NW4
House Tank(s) Capacity:	51st Floor 3,500 gallons, 11th floor 3,500 gallons.
House Tank Location(s):	51 and 11 sprinkler/ standpipe

CLASS "B" SYSTEMS

Manufacturer:	Cerebus Pyrotronics Model #5000
Sub. System(s):	**Pyrotronics and Notifier**
Location(s):	**Plaza Floor/Ground floor – Fire Safety Department**

ELECTRICAL

Lighting Control Systems:	Yes, BMS
Manufacturer:	Wattstoppers Controls
Floor Distribution System:	Floor cell system

Methods of Procedures

Standard Template Form

Appendix 2: Method of Procedures (M.O.P)

Instructions:

- A MOP (Methods of Procedures) document is required for designated work.
- Use the tab key or mouse to navigate from field to field.
- When using attachments or supplemental documentation, please reference those documents in the applicable MOP Section.
- Electronic versions of completed MOP's should be retained on file for future use.
- **Switching Tags:** for work activity in this MOP associated with switch or valve alignment changes, Switching Tags are to be used to validate that electrical or mechanical equipment is properly configured to support the planned activity.

Section 1: Title Page

General Information							
MOP Title:							
Activity Type	**Select One**		**Comments**				
Pull The Plug Test							
Major Maint. (Power Down)							
Planned Maintenance							
Corrective Maintenance							
Predictive Maintenance							
Emergency Repair							
System Testing							
Installation							
Housekeeping							
Commissioning							
Demolition							
Other (Describe)							
MOP Number:			**Are there attachments?**	**Yes**	**No**		
MOP Manager							
Site / Building Name:	**28 Liberty St.**						
Address:	**28 Liberty St.**		**City:**	**New York**	**ST:**	**NY**	
Start Date of Work Period (mm/dd/yyyy):		**Start Time of Work Period (local – hh:mm, AM or PM:**					
End Date of Work Period (mm/dd/yyyy):		**End Time of Work Period (local – hh:mm, AM or PM):**					
Work Area:							

Attachments	
Attachment 1:	
Attachment 2:	
Attachment 3:	
Attachment 4:	
Attachment 5:	
Attachment 6:	
Attachment 7:	
Attachment 8:	
Attachment 9:	
Attachment 10:	

Contact Information			
Point of Contact	**Name**	**Emergency Contact Number**	**Mobile Phone**
MOP Author:			
Chief Engineer:			
MOP Manager:			
General Manager:			
Sr. Real Estate Manager:			
Real Estate Manager:			
Project Manager:			
Asst. Chief Engineer:			
Foreman			
Tenant #1 Contact:			
Tenant #2 Contact:			
Tenant #3 Contact:			
Director::			
Director:			
Other:			
Other:			
Other:			
Other:			

Section 2. Purpose & Scope

Discuss, in as much detail as necessary, the purpose, reasons and expected outcomes for the planned work including the equipment and systems that will be affected.

Number each risk and describe all apparent risks caused by the work effort described in the MOP.

Risk No.	Risk Description	Back-out Plan	Initial When Reviewed
	Human error	POTENTIAL RISK: A mistake can cause worker injury, a loss of service, or a significant delay in the performance of the assigned task. RISK MITIGATION: To limit this risk, MOP manager will prepare with a MOP review meeting with all on-site personnel before any work begins. The MOP manager and all staff and vendors will follow the MOP's work scope. BACK-OUT: Upon discovery or notification of an error, MOP manager will notify Chief Engineer & SREM or REM.	

	Loss of service because of tripped breaker	POTENTIAL RISK: A risk with this work is the chance that while working in or around critical equipment, electrical switches, or breakers, an energized circuit breakers or switch could trip or be turned off. A tripped breaker/switch will cause of loss of service to the IT and/or MEPF equipment connected to that breaker. RISK MITIGATION: Staff will exercise caution while working around electrical equipment. A review of the MOP's work scope and specific work areas will be conducted by the MOP manger. The MOP manager will stop any work practices deemed slipshod. BACK-OUT: BACK-OUT: Upon discovery or notification of an error, MOP manager will notify Chief Engineer & SREM or REM.	
	Worker injury - Arc flash is possible when opening up or closing panels and opening and closing breakers.	POTENTIAL RISK: An arc flash can cause serious worker injury, damage equipment, and loss of service. RISK MITIGATION: Anyone opening/closing panel doors and breakers shall be a qualified person who is wearing the appropriate PPE for the work being done. This safety precaution will greatly reduce risk of injury. BACK-OUT: BACK-OUT: Upon discovery or notification of an error, MOP manager will notify Chief Engineer & SREM or REM.	

Section 4. Responsibilities

Personnel - List the personnel involved and their areas of responsibility.

Name	Affiliation / Company	Contact Number	Responsibility

Special Tools - List all known special tool requirements.

Special Tool	To be Provided By	Affiliation/Company	Verify Calibration Current

Section 5. Prior to Performing This Procedure

List all tasks to be completed prior to actual work commencement. The purpose of these steps is to ensure that the MOP including the switching tags, if applicable, has been "walked-down" (verifying the accuracy of each step and switching tag operation), to ensure that all required personnel, testing apparatus and special equipment are accounted for, to ensure that all pertinent documentation (drawings, manuals, specs, manufacturer recommendations, etc) are on hand and to ensure that the MOP and Work Orders have all been approved.

Task No.	Responsible Party	Description	Initial When Complete
1	MOP MGR	Fully approved Change Management document	
2		Controlled hard copy of a fully approved Method of Procedure document in hand	
3			
4			
5			
6			
7			
8			
9			
10			
11			

Section 6. Rehearsal Meetings

Provide a description of all planned rehearsal meetings to include Date, Time, Location, Meeting Leader, etc. Provide an attendee listing.

Meeting Date	Meeting Time	Meeting Type/ Name	Required Attendees	Affiliation/ Company	Phone Number

Section 7. Work Phases

Instructions:

- List all tasks in technical detail **including the required or desired result of the task (where applicable).**
- Each task and required result shall be verified and initialed off as they are completed.
- Add extra lines or delete unused lines as required.
- For work efforts that span more than one day in the work period specified in Section 1 above, annotate such in the task line…eg: Work Day 1, MON, 02/02/04; then list all tasks in sequence for that day. The next day's work would start under the header: Work Day 2, TUE, 02/03/04 with the list of all tasks in sequence for that day.
- **Critical Steps**

Task No.	Responsible Party	Planned Time (hh:mm)	Task	Critical Step	Task Verifier Initials
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					

Section 8. Close-Out

Provide a summation of the outcome of the MOP work plan, including the overall results of the testing, upgrading, repairing and construction work. Include any useful information relative to lessons learned and next steps if necessary. Provide also a final listing of attendees and their phone numbers

Section 9. Signatures

This section is used to record the names of the MOP author, those provided an information copy of the MOP, those required to review and those responsible for approving the MOP. The definitions of the Roles section is:

Technical, Infrastructure and Work Process Review

	Required (Yes/No)	Position or Title	Name (Printed/Typed)	Signature	Date
	YES	MOP Manager			
		Consultant (if req'd)			
	YES	Chief Engineer	Richard McBride		

MOP Approval

	Required (Yes/No)	Position or Title	Name (Printed)	Signature	Approval Date
	Yes	Asst. Chief Engineer			
	Yes	Chief Engineer			
		Real Estate Manager			
		Sr. Real Estate Manager			
		General Manager			

SCRIPTED OPERATION ONLY

DEVICE / SWITCH OPERATION TAG

MOP | **TA**

STEP 1

DEVICE INFORMATION

☐ **SWITCHBOARD** ☐ **VALVE**

Device ID	*As-found Position*

STEP 2

CRITICAL DEVICE OPERATION

SCRIPTED DEVICE / SWITCH OPERATION

Task No. (in MOP, Sec. 9)	OPERATION (Open/Close)	ITEM COMPLETE
		☐
		☐
		☐
		☐
		☐
		☐

STEP 3

FIELD TAGGING TEAM AUTHORIZATION

Group	Company	*Printed Name*	Initials
Authorizer 1			
Authorizer 2			

Once switching is completed, tags shall be returned with completed MOP document.

Section 10. Switching Tags

1) Switching Tags are prepared as part of the script and should be prepared by the MOP author.
2) A Field Tagging Team will complete the placement of the Switching Tags. The Field Tagging Team reviews the MOP script items and Switching Tags for accuracy at the equipment location. Switching Tags are affixed to specified devices at this time and initialed. The Field Tagging Team usually consists of the Chief Engineer and another individual familiar with the system operation.
3) The device will be operated by the Switching Team. The Switching Team will usually be made up of at least two people. One person will Operate the identified device (Operator) and the other person will verify the operation with the MOP script (Director) according to one-line diagrams if applicable. Only the Switching Team will be allowed in the area where switching is to be performed.
4) Each switching step will be signed of on the MOP after each step is completed.

APPENDIX V

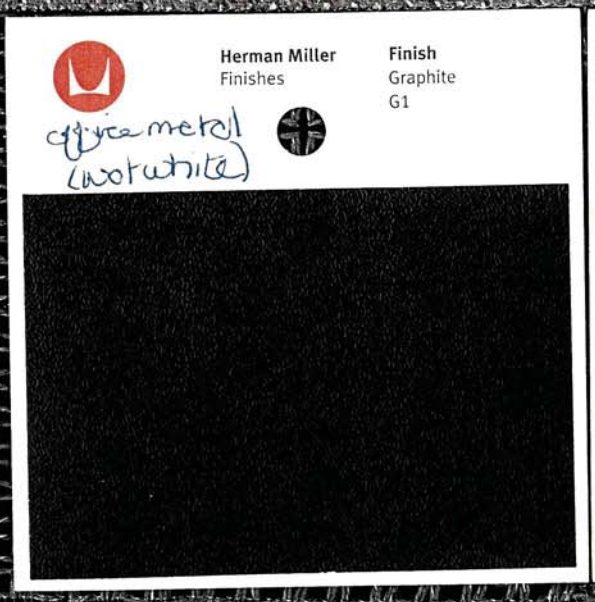
Renderings and Elevations

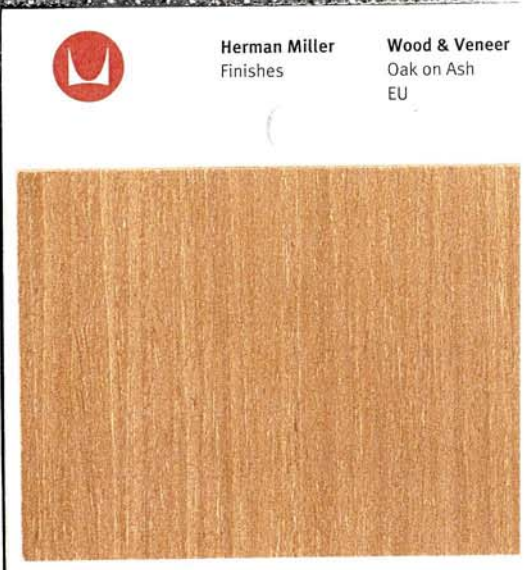
(for Rooms, Offices & Furniture)



Office tackable surface fabric
Herman Miller - Grasscloth, Taro 2108

Guest Chair
HM - Bento,
Grey Black 7005











Workstaiton main fabric - Herman Miller - Grasscloth, Taro 2108



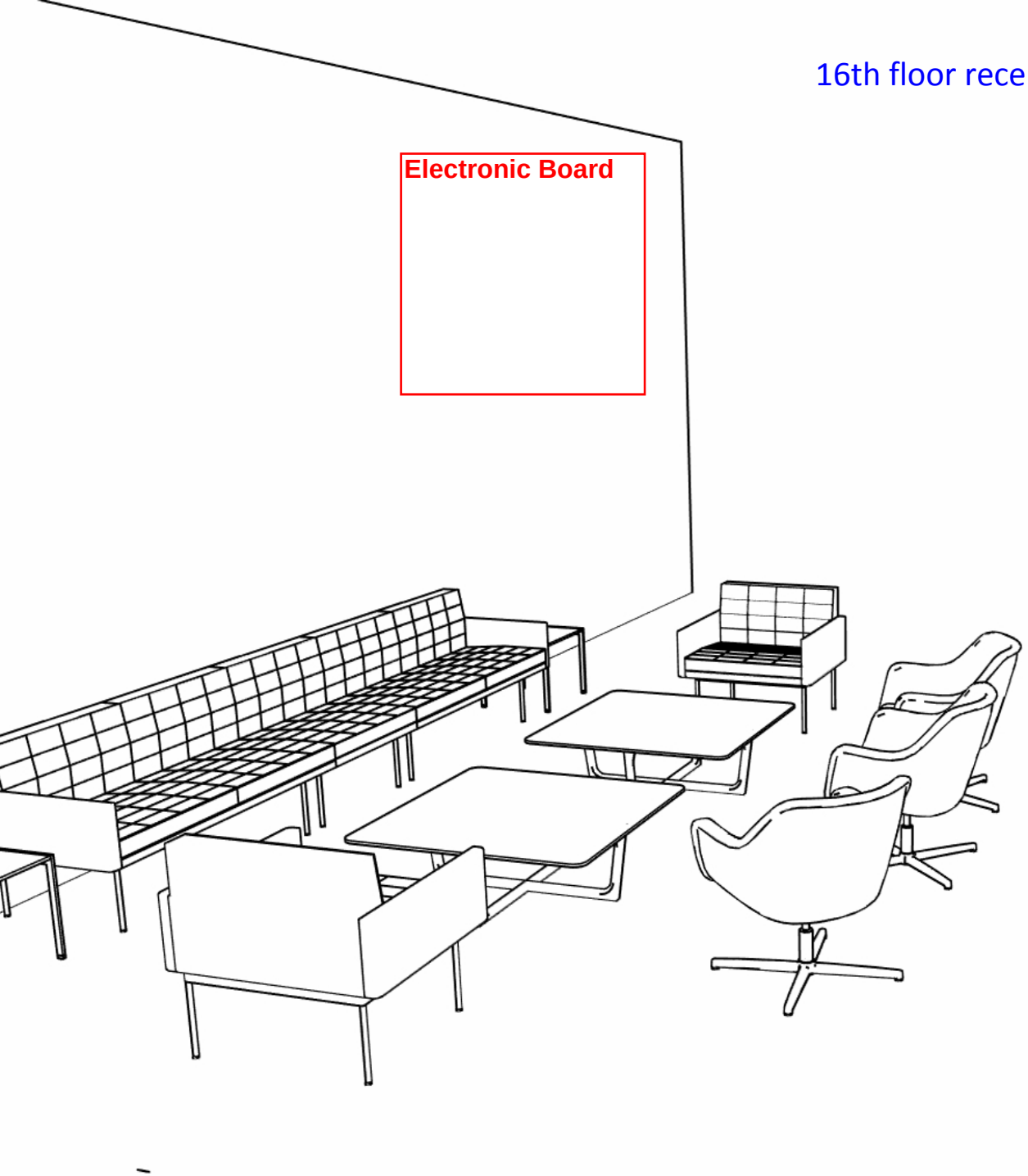
Workstation - spine fabric HM - Twist, Periwinkle, 8R21





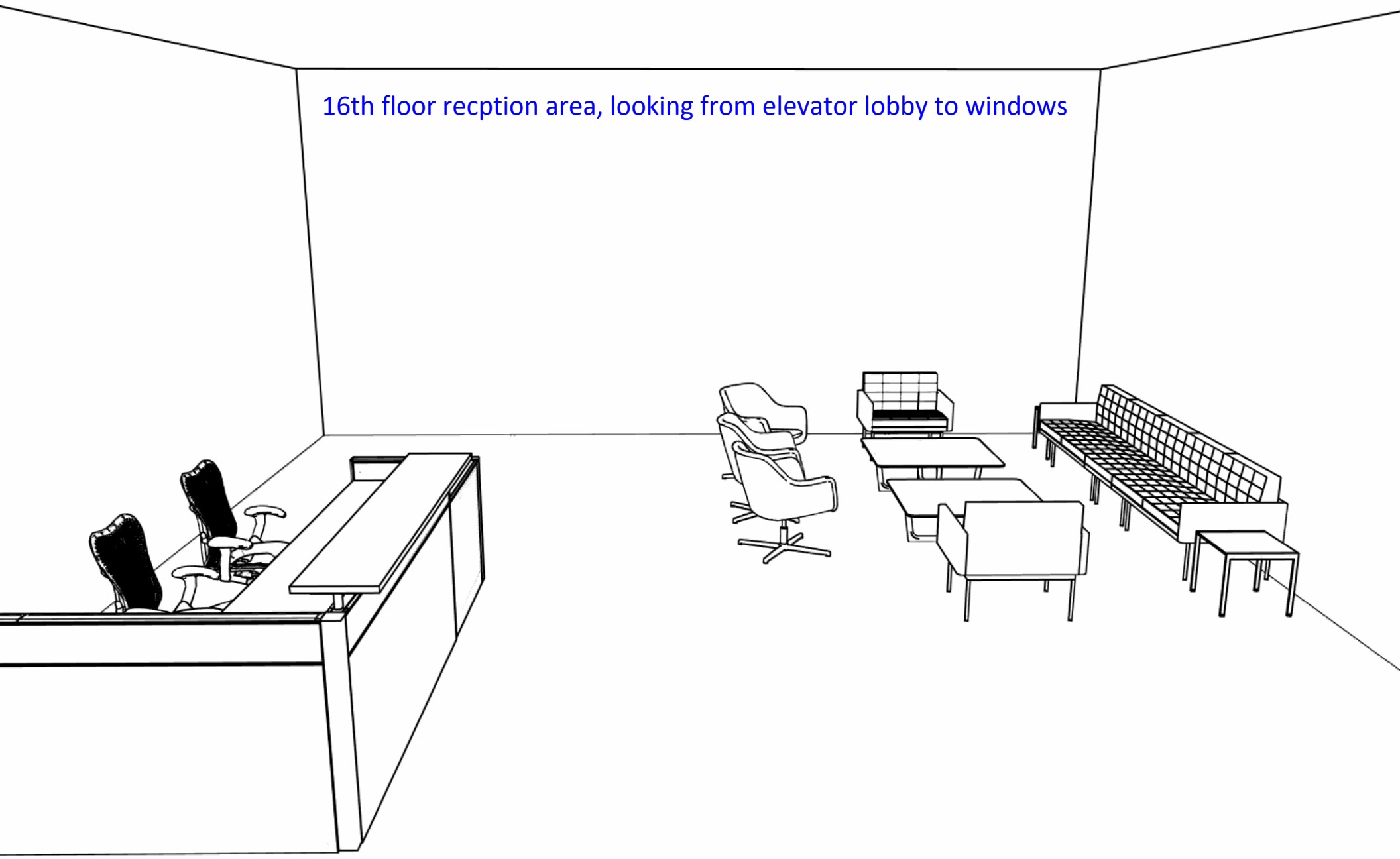


16th floor reception area, looking from windows to lobby

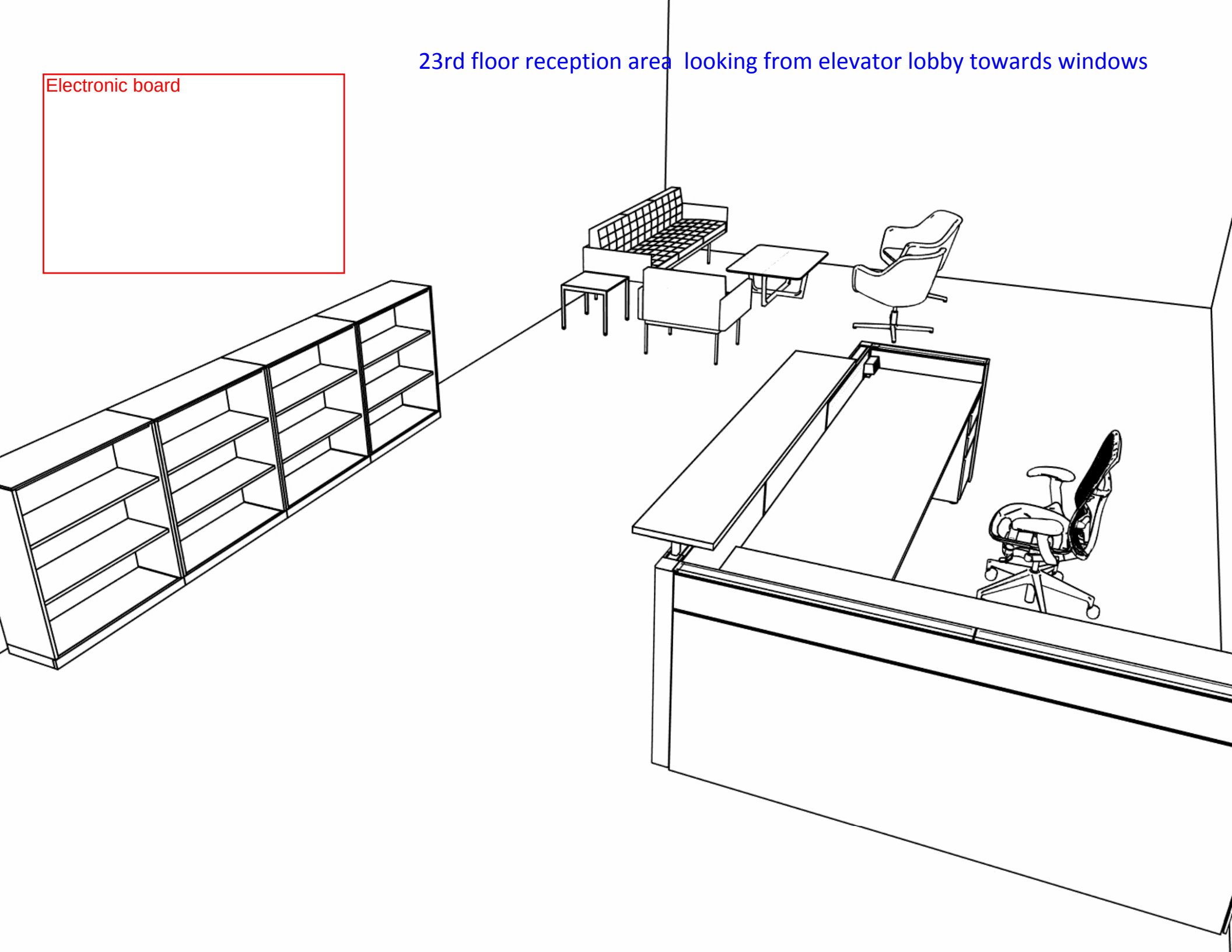




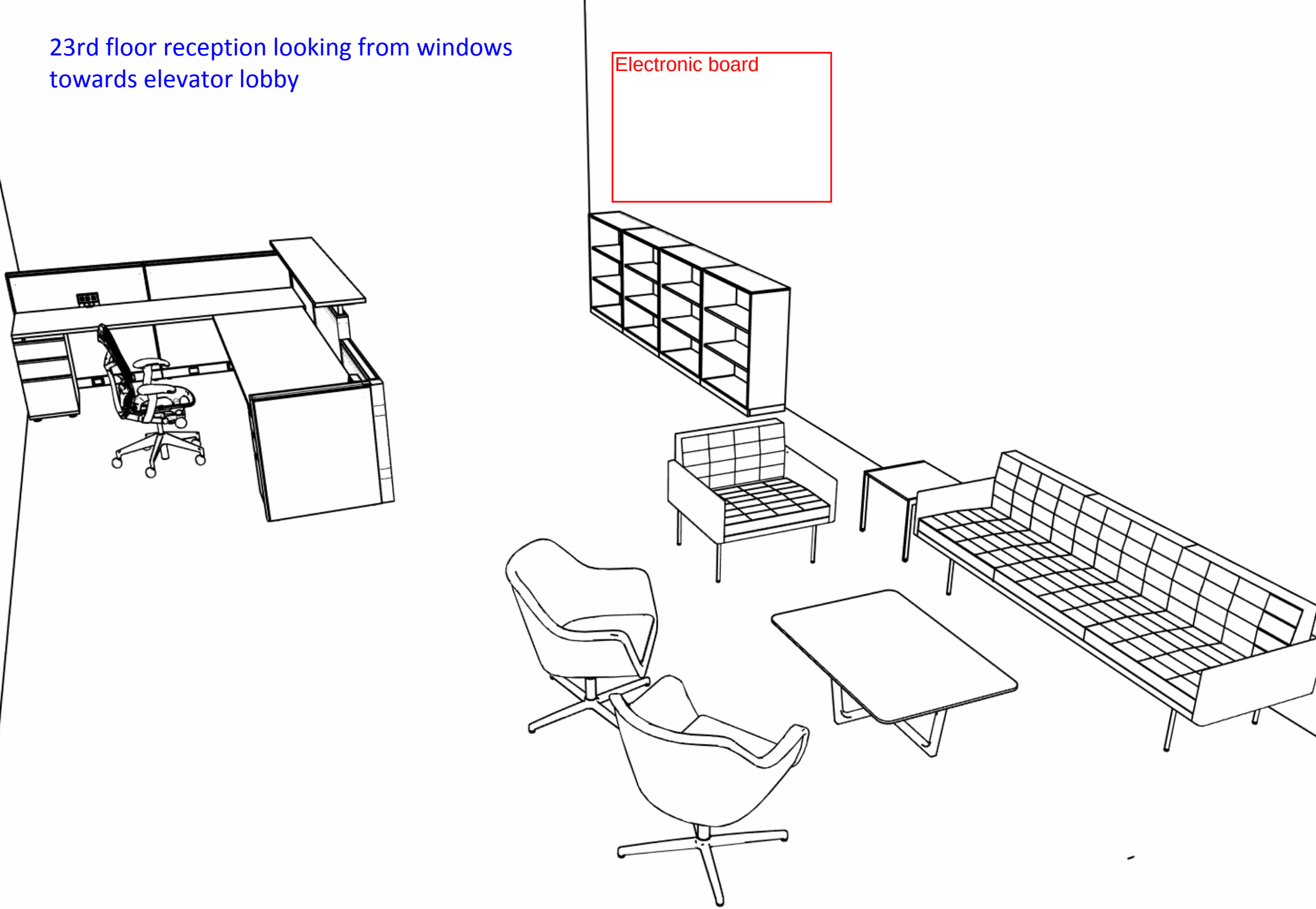
16th floor recption area, looking from elevator lobby to windows



23rd floor reception area looking from elevator lobby towards windows



23rd floor reception looking from windows towards elevator lobby



APPENDIX VI

Finishes Package

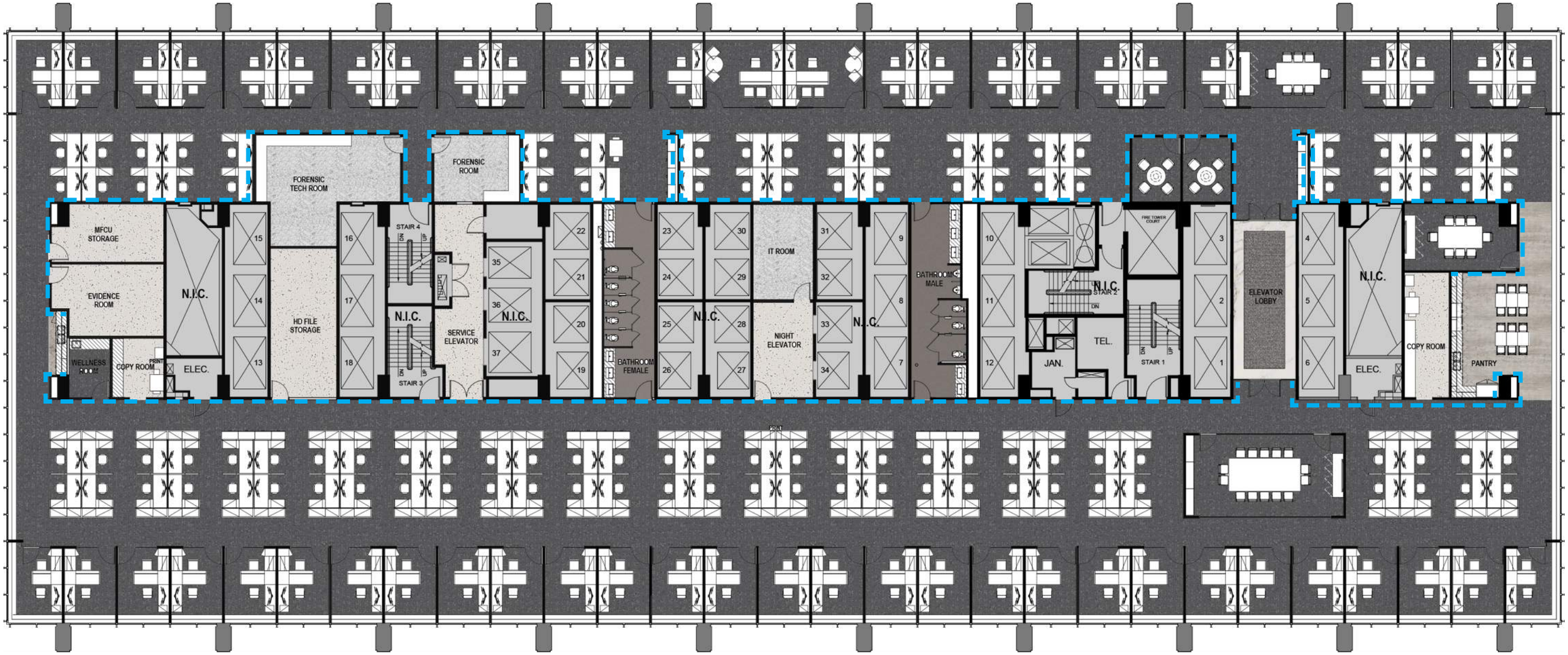
(for lobbies, elevator lobbies, office corridors, offices, cubicles, etc.)

28 Liberty Street, Floors 13-21 & 23

Approved Finishes

August 28, 2017

TYPICAL FINISH PLAN



CARPET



CP1
Carpet Tile
Manufacturer: Interface
Style: WW870
Size: 25cm x 1m
Color: Charcoal Weft
105345

RESILIENT FLOOR



RT1
Resilient Flooring
Manufacturer:
Tandus-Centiva
Style:Fusion
Size: 6”x36”
Color: Quil 3728



RT2-Opt2
VCT
Manufacturer:
Armstrong
Style: Migrations BBT
Size: 12”x12”
Color: Platinum Gray
T3501



RT3
Static Control
Manufacturer:
Shaw Contract
Style: Summit Series
Size: 12”x12”
Color: Rainier C6005

PAINT

PT1
Paint
Manufacturer:
Benjamin Moore
Color: Super White
PM-1

PT2
Paint
Manufacturer:
Benjamin Moore
Color: Sparrow
AF-720



CP1



WALL FINISHES

WD1
Lacquer Panel
Finish: Catalyzed Polyurethane
Color: Benjamin Moore Super White
Sheen: Satin, 30-50%

FLOOR FINISHES

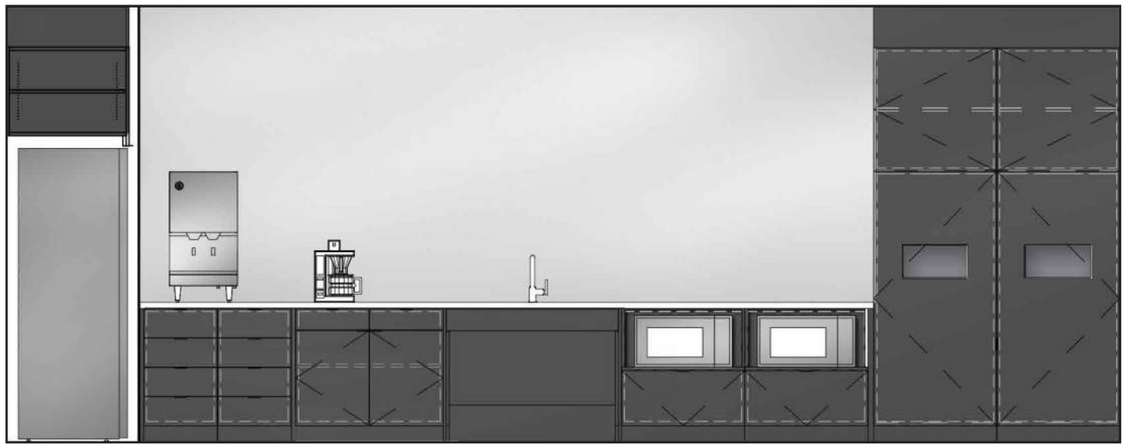


TL1
Floor Tile
Manufacturer: MS International
Style: Pietra Carrara
Size: 12”x24”
Color: White
Finish: Polished



CP4
Carpet (Broadloom)
Manufacturer: Atlas Carpet
Style: Tessile
Width: 12’ 6”
Color: TE08 Intercoastal

TYPICAL PANTRY



MILLWORK FINISHES

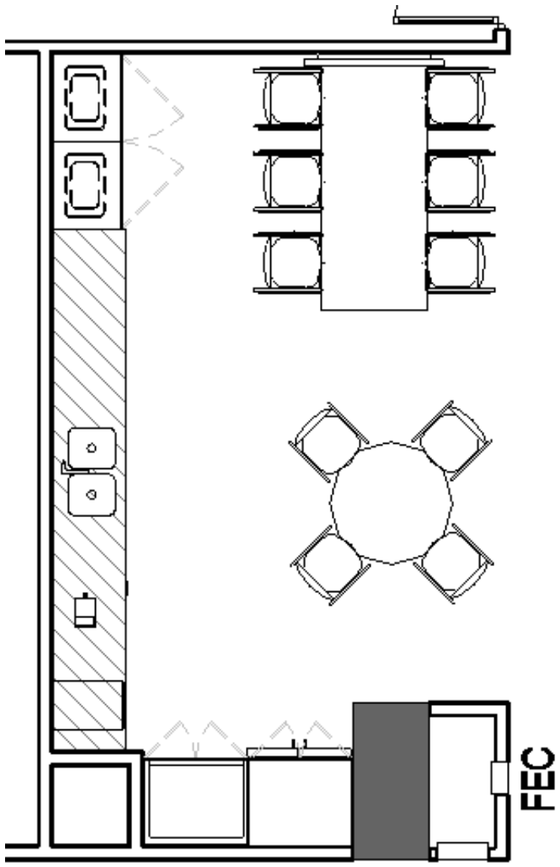


PL1
Plastic Laminate
Manufacturer: Formica
Style: Mouse
928-58
Finish: Matte Finish
Cabinet Doors

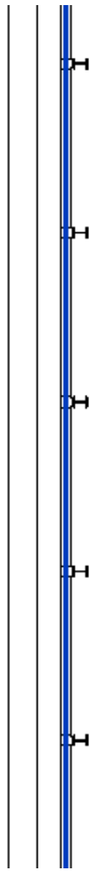
PL2
Plastic Laminate
Manufacturer:
Wilsonart
Style: Linen
D427-60
Finish: High Gloss
Backsplash

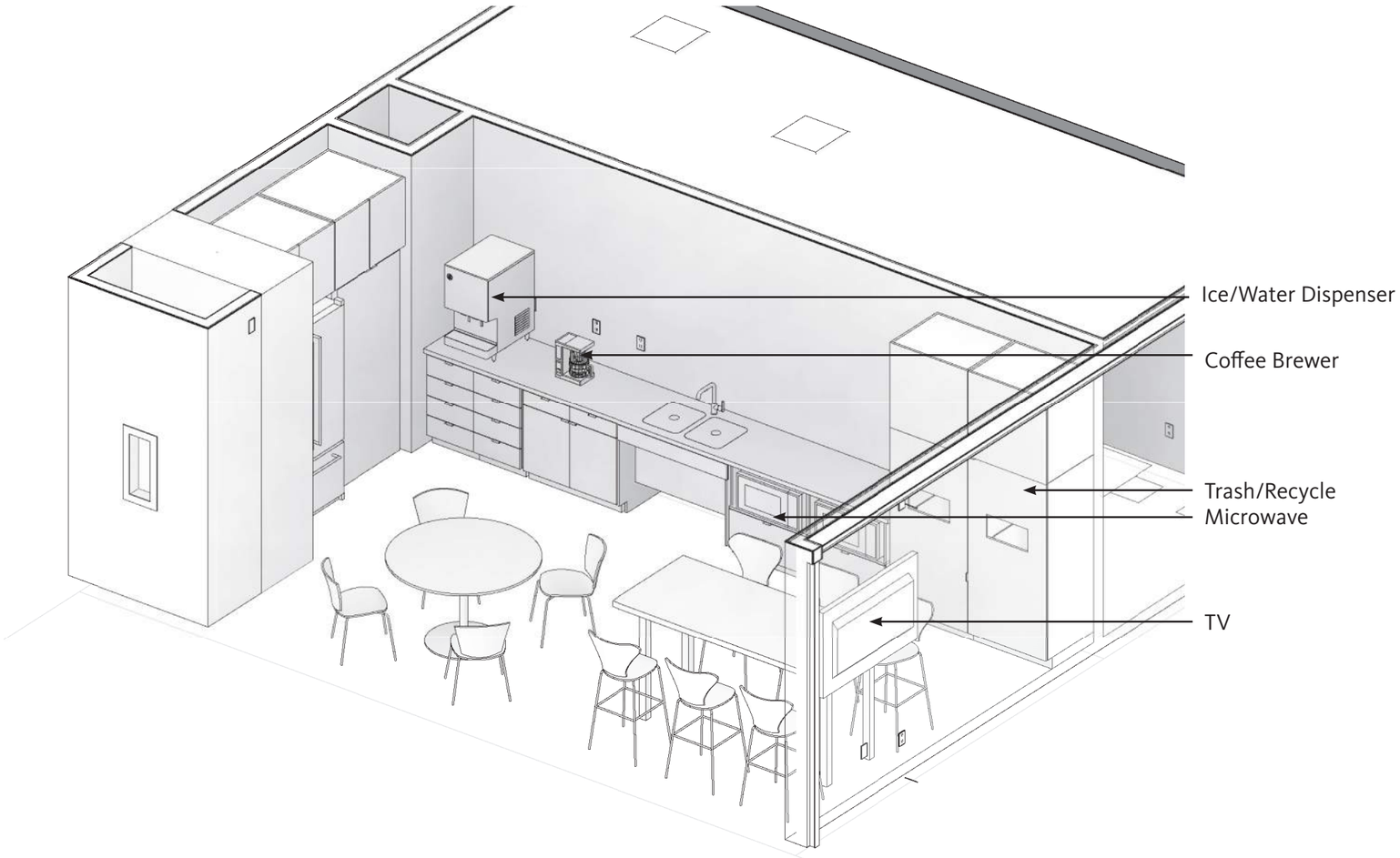


SC2
Simulated Stone
Manufacturer:
Caesarstone
Style: Nougat
6600
Finish: Polished
Countertop

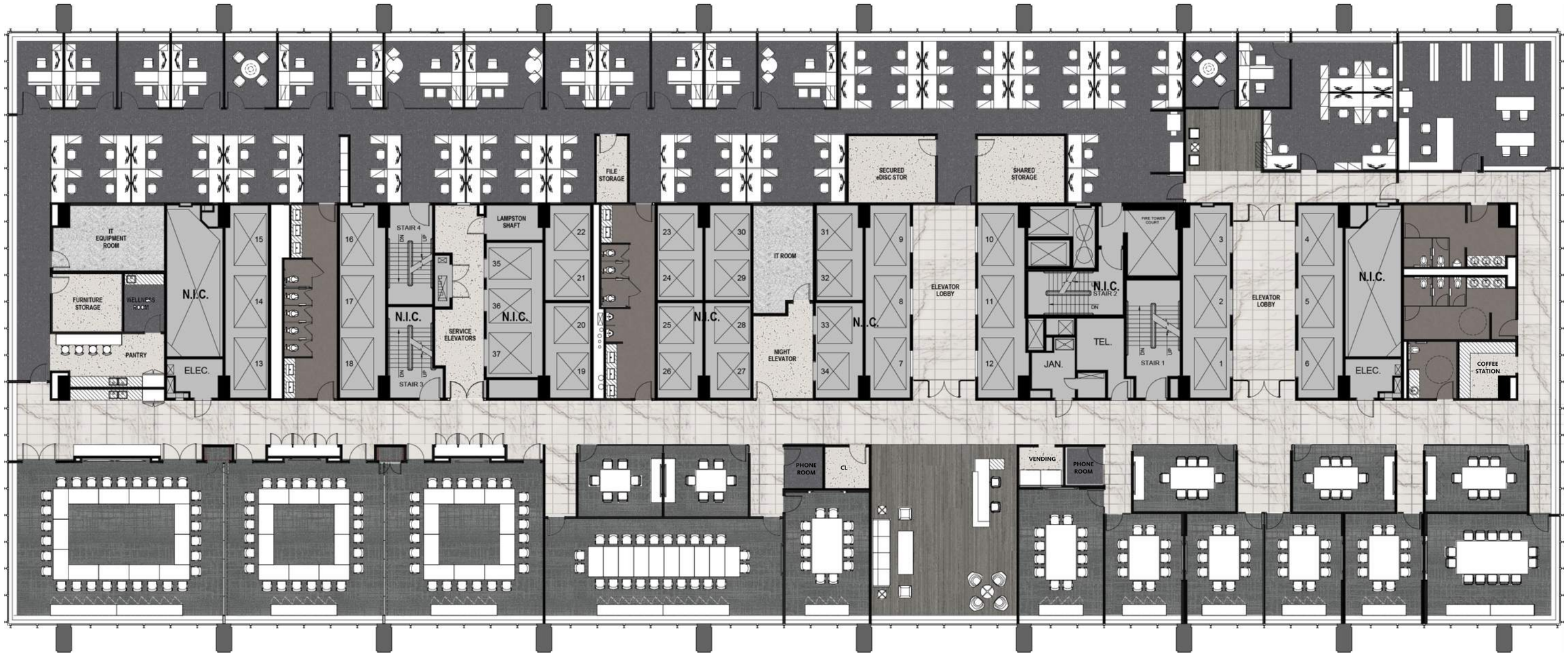


PLAN





FINISH PLAN I 16th FLOOR



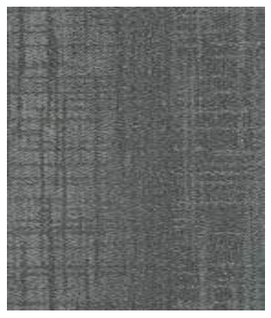
CARPET



CP1
Carpet Tile
Manufacturer: Interface
Style: WW870
Size: 25cm x 1m
Color: Charcoal Weft
105345



CP2
Carpet Tile
Manufacturer: Interface
Style: CE 173
Size: 9.8” x 39”
Color: Samurai
104966



CP3
Carpet Tile
Manufacturer: Shaw
Style: Haze Tile
5T037
Size: 18” x 36”
Color: Dreamy 37481

TILE FLOOR



TL1
Porcelain Tile
Manufacturer:
MS International
Style: Pietra Carrara
Size: 12” x 24”
Color: White

Summit Glory



CP1



CP2

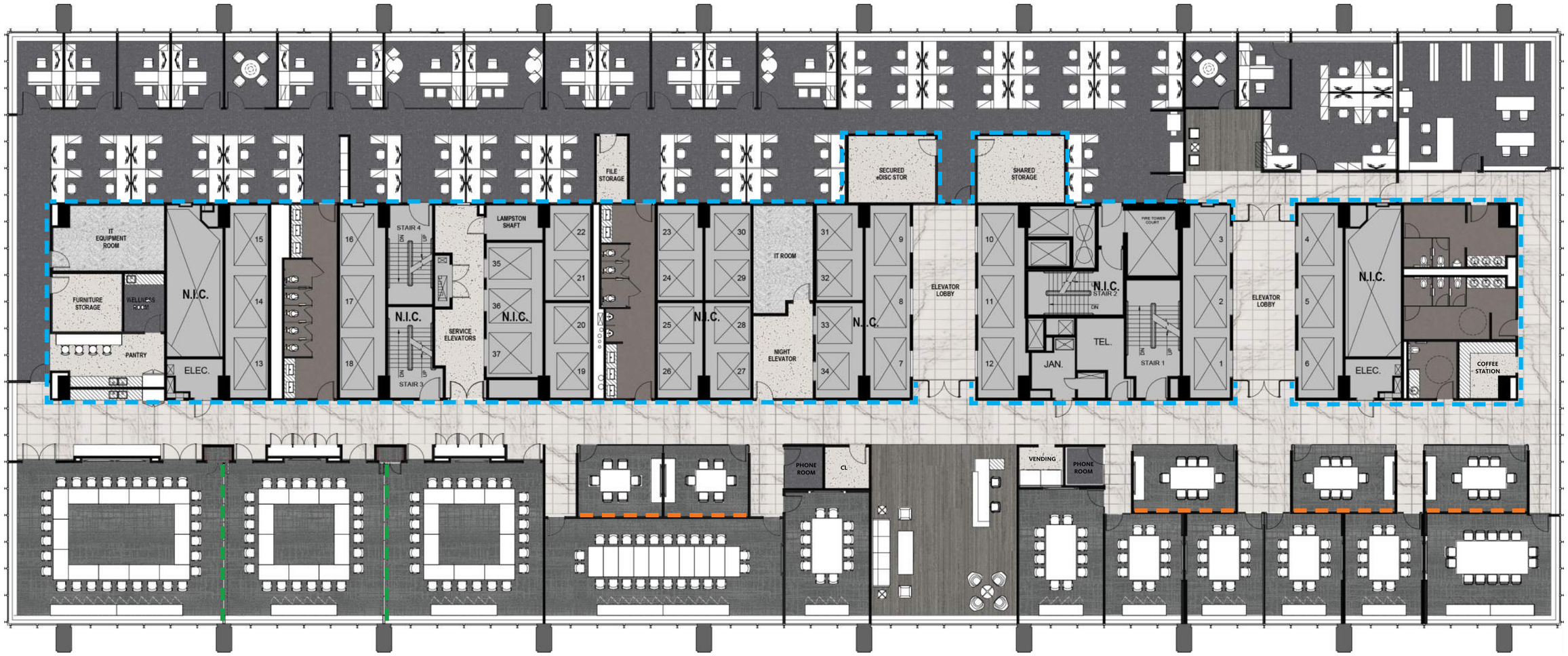


CP3

28 Liberty Street, Floors 13-21, 23
New York, NY 10005

Gensler

FINISH PLAN I 16th FLOOR



PAINT

PT1
Paint
Manufacturer:
Benjamin Moore
Color: Super White
PM-1

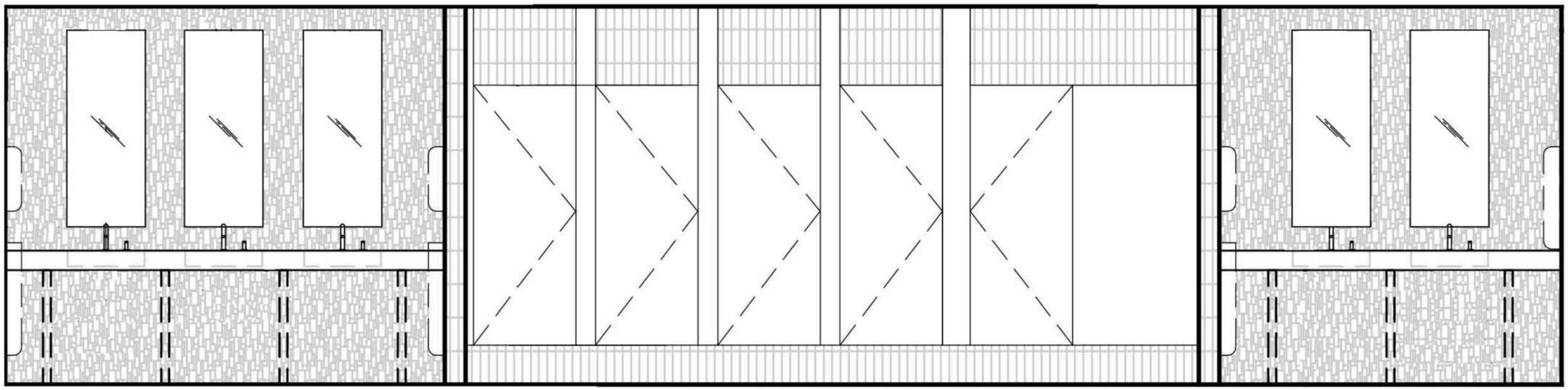
PT2
Paint
Manufacturer:
Benjamin Moore
Color: Sparrow
AF-720

PT3
Paint
Manufacturer:
Benjamin Moore
Color: River Reflections
1552

OPERABLE PARTITION

OP1
Panel Fabric
Manufacturer:
Carnegie Xorel
Style: Strie
Color: 6423-807

BUILDING STANDARD I RESTROOMS



WALL FINISHES



ST1
Accent Wall Tile
Style: Carrara Marble
Size: 1.24”x1.94” x 0.81” / 1.04” x 1.94” irregular pieces on a 12”x12”
Color: White with Grey Vein
Finish: Mixed



TL3
General Wall Tile
Manufacturer: Metro
Style: White Gloss
Size: 2 1/8” x 8 1/2”
Color: White
Finish: Glazed

FLOOR FINISHES



TL2
Floor Tile
Manufacturer: Eleganza
Style: Modern
Size: 12”x24”
Color: Cemento
Finish: Matte

COUNTERTOP

SC1
Manufacturer: Caesarstone
Style: Caesarstone
Color: Blizzard
Finish: Polished

28 Liberty Street, Floors 13-21, 23
New York, NY 10005

I. INTRODUCTION

The Guidelines have been issued pursuant to the New York State Finance Law, which prohibits lobbying on procurement contracts. The Guidelines, which apply to all Office of Attorney General (OAG) procurement contracts, limit communications between offerers and the OAG during the Restricted Period of a Governmental Procurement. During the Restricted Period, an Offerer may only communicate with the person or persons designated by the OAG to receive communications regarding such Governmental Procurement.

II. STATUTORY DEFINITIONS[1]

Article of Procurement: A commodity, service, technology, public work, construction, revenue contract, the purchase sale or lease of real property or an acquisition or granting of an interest in real property that is the subject of a governmental procurement.

Contact: Any oral, written or electronic communication with the OAG under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement.

Governmental Entity: All New York State agencies and authorities, both houses of the Legislature, the Unified Court System, municipal agencies and their respective employees.

Governmental Procurement: shall mean: (i) the preparation of terms of the specifications, bid documents, requests for proposals, or evaluations criteria for a procurement contract, (ii) solicitation for a procurement contract, (iii) evaluation of a procurement contract, (iv) award, approval, denial or disapproval of a procurement contract, or (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the Comptroller, as applicable), renewal or extension of procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer.

Offerer: The individual or entity, or any employee agent or consultant or person acting on behalf of such individual or entity, that communicates with the OAG about a **Governmental Procurement** or seeks to participate in a **Governmental Procurement**.

Procurement Contract: Any contract or other agreement for an **Article of Procurement** involving an estimated annualized expenditure in excess of $15,000. Grants, Article 11-B State Finance Law Contracts, Intergovernmental Agreements, Railroad and Utility Force Accounts, Utility Relocation Project Agreements or Orders of Eminent Domain Transactions shall not be deemed **Procurement Contracts** in these Guidelines.

Restricted Period: The period of time commencing with the earliest date of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerers intending to result in a **Procurement Contract** with the OAG and, ending with the final contract award and approval by, where applicable, the Office of the State Comptroller.

III. EXEMPTIONS

Certain communications are exempt from the Guidelines. These include: (i) submissions in response to an invitation for bid, a request for proposal or other solicitation, (ii) submissions of written questions to a designated contact set forth in an invitation for bid, request for proposal or other solicitation, (iii) participation in a conference provided for in an invitation for bid, request for proposal or other solicitation, (iv) contract negotiations, (v) inquiries regarding the factual status of a **Procurement Contract**, and (vi) complaints and protests regarding the procurement process and outcome.

In addition, any communication received by the OAG from members of the New York State Legislature or the Legislative Staff, when acting in their official capacity, shall not be considered a **Contact**.

IV. VIOLATIONS

A violation of these Guidelines occurs when there is a **Contact** during the **Restricted Period** between the **Offerer** and someone other than the person or persons designated by the OAG to receive communications for the particular **Governmental Procurement**. This includes instances where the **Offerer Contacts** the OAG regarding **Governmental Procurements** of other **Governmental Entities**.

Attempts by an **Offeror** to influence a **Governmental Procurement** in a manner that would result in a violation of the Public Officer's Law, the Executive Orders of the Attorney General, or any other applicable ethics code shall also be a violation of these Guidelines.

V. PROCEDURES

A. Notifying Vendors of Procurement Lobbying Guidelines

1. For each **Procurement Contract**, the OAG Budget and Fiscal Management Bureau will designate a person or persons to receive communications from **Offerers** concerning the **Procurement Contract**.
2. The OAG Purchasing Team will incorporate a summary of the policy and prohibitions regarding permissible communications during a **Governmental Procurement** in its documents relating to the **Procurement Contract** and provide a copy of these Guidelines.
3. The OAG Purchasing Team shall seek written affirmation from all **Offerers** as to the **Offerer's** understanding of and compliance with these Guidelines (Appears at the end of this guideline).

B. Making Determinations of Responsibility

1. Prior to award of a **Procurement Contract**, the OAG must make a responsibility determination with respect to the **Offerer** to be recommended for the award of the contract based upon, among other things, the information supplied by that **Offerer**. The **Offerer** must disclose in the Vendor Responsibility Questionnaire whether it has been found non-responsible within the last five years by any **Governmental Entity** for: (1) failure to comply with State Finance Law §139-j, or (2) the intentional provision of false or incomplete information. This disclosure must be certified by the **Offerer** and must affirmatively state that the information supplied by the **Offerer** to the OAG is complete, true and accurate (Appears at the end of this guideline).
2. The **Procurement Contract** shall include a provision allowing the OAG to terminate the contract if the certification is subsequently found to be incomplete, false or inaccurate. Admissions by the **Offerer** of past findings of non-responsibility may constitute a basis for rejection of

the Offerer by the OAG. The OAG can award a contract to the **Offerer** despite the past findings of non-responsibility if it determines that the award of the **Procurement Contract** to the **Offerer** is necessary to protect public property or public health or safety, and that the **Offerer** is the only source capable of supplying the required **Article of Procurement** within the necessary time frame. The basis of such a finding must be included in the procurement record of the **Procurement Contract**.

C. Recording Contacts

1. All OAG employees must record any **Contact** from any person or entity. **Contacts** may be initiated by parties with an interest in the procurement that are not necessarily connected directly to the **Offerer**. **Contacts** may come in the form of telephone conversations, correspondence, electronic mail and person-to-person discussions. The Record of Contact Form should be used to record <u>all</u> **Contacts**.

2. Examples of **Contacts** for which a Record of Contact must be completed include:

   a. During the **Restricted Period**, an **Offerer Contacts** an OAG employee (other than the employee designated to receive such communications) to discuss the **Offerer's**, cost-competitiveness or its suitability to be selected for a contract

   b. A court reporter, expert witness or any other vendor offers an OAG employee a gift of any monetary value during the **Restricted Period**.

3. Examples of permissible communications for which <u>there is no need to prepare Record of Contact include</u>:

   a. Inquiries as to the status of the procurement process
   b. Requests to be included on the OAG's **Offerer's** list
   c. Receipt of advertising material
   d. Intra-agency communications of administrative details concerning the procurement
   e. Responses to OAG issued Requests for Information
   f. Written questions submitted by **Offerers** regarding a solicitation during the allowable time period of a competitive procurement
   g. Complaints about the procurement process or outcome
   h. Participation in an **Offerer's** conference as provided in a request for proposal or invitation for bid
   i. Submission of a bid in response to a request for proposal or invitation for bid
   j. Contract negotiations
   k. Debriefing of a **Offerer** after a contract award has been made

4. If an OAG employee is in doubt about whether a communication was intended to influence the **Governmental Procurement**, he/she should record the communication on the Record of Contact Form and submit it to ProcurementLaw@OAG.State.NY.US for further investigation

5. The OAG Purchasing Team will be required to include all Records of Contact in the procurement record for the related **Procurement Contract**.

D. Investigation of Contacts/ Penalties for Violations

1. All reported **Contacts** will be immediately investigated by the OAG Ethics Officer or his or her designee. If the OAG Ethics Officer finds sufficient cause to believe that an **Offerer** has violated these Guidelines, the **Offerer** will be notified in writing of the investigation and will be afforded an opportunity to respond to the alleged violation. Investigations will be completed as soon as practicable so as not to delay the progress of the **Governmental Procurement**.

2. If the OAG Ethics Officer should find at the conclusion of the investigation that the **Offerer** knowingly and willfully made prohibited **Contact** in violation of these Guidelines, then the **Offerer** shall be disqualified as non-responsible, unless the OAG makes a finding that the award of the **Procurement Contract** to the **Offerer** is necessary to protect public property or public health or safety, and that the **Offerer** is the only source capable of supplying the required **Article of Procurement** within the necessary time frame. The basis of such a finding must be included in the procurement record of the **Procurement Contract**.

[1]Defined terms are in bold

Company Understanding & Compliance with State Finance Law Section 139-j & 139-k:

Company affirms that it understands and agrees to comply with the procedures of the Office of the Attorney General relative to permissible contacts as required by State Finance Law Section 139-j (3) and Section 139-j (6) (b); and that all information provided to the Office of the Attorney General, with respect to State Finance Law Section 139-k is complete, true and accurate.

Signed By: _____

Date: _____

Name (Print): _____

Title: _____

Company Name:
_____

Company Address:
_____
_____

Company Disclosure of Prior Non-Responsibility Determinations:

Has any NYS agency/authority made a finding of non-responsibility regarding the Offerer in the last 5 years?:
☐ Yes ☐ No

Has any NYS agency/authority terminated a procurement contract with the Offerer due to intentional provision of false or incomplete information?:
☐ Yes ☐ No

If "Yes" to either/both questions, please provide details; such as: NYS Agency/Authority, Basis for Finding, Year of Finding/Termination, and Facts Underlying Finding/Termination.

NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the IT Service Desk at ITServiceDesk@osc.state.ny.us or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

I. LEGAL BUSINESS ENTITY INFORMATION			
Legal Business Entity Name*		EIN	
Address of the Principal Place of Business (street, city, state, zip code)		New York State Vendor Identification Number	
		Telephone ext.	Fax
Email		Website	

Additional Legal Business Entity Identities: If applicable, list any other DBA, Trade Name, Former Name, Other Identity, or EIN used in the last five (5) years and the status (active or inactive).

Type	Name	EIN	Status

1.0 Legal Business Entity Type – Check appropriate box and provide additional information:

☐ Corporation (including PC)	Date of Incorporation
☐ Limited Liability Company (LLC or PLLC)	Date of Organization
☐ Partnership (including LLP, LP or General)	Date of Registration or Establishment
☐ Sole Proprietor	How many years in business?
☐ Other	Date Established

If Other, explain:

1.1 Was the Legal Business Entity formed or incorporated in New York State?	☐ Yes ☐ No

If 'No,' indicate jurisdiction where Legal Business Entity was formed or incorporated and attach a Certificate of Good Standing from the applicable jurisdiction or provide an explanation if a Certificate of Good Standing is not available.

☐ United States State _____

☐ Other Country _____

Explain, if not available:

1.2 Is the Legal Business Entity publicly traded?	☐ Yes ☐ No

If "Yes," provide CIK Code or Ticker Symbol

1.3 Does the Legal Business Entity have a DUNS Number?	☐ Yes ☐ No

If "Yes," Enter DUNS Number

*__All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf.__

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

I. LEGAL BUSINESS ENTITY INFORMATION	
1.4 If the Legal Business Entity's Principal Place of Business is not in New York State, does the Legal Business Entity maintain an office in New York State? (Select "N/A," if Principal Place of Business is in New York State.)	☐ Yes ☐ No ☐ N/A
If "Yes," provide the address and telephone number for one office located in New York State.	
1.5 Is the Legal Business Entity a New York State certified Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE), New York State Small Business (SB) or a federally certified Disadvantaged Business Enterprise (DBE)? If "Yes," check all that apply: ☐ New York State certified Minority-Owned Business Enterprise (MBE) ☐ New York State certified Women-Owned Business Enterprise (WBE) ☐ New York State Small Business (SB) ☐ Federally certified Disadvantaged Business Enterprise (DBE)	☐ Yes ☐ No

1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

Name	Title	Percentage Ownership (*Enter 0% if not applicable*)

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

II. REPORTING ENTITY INFORMATION	
2.0 The Reporting Entity for this questionnaire is: Note: Select only one. ☐ Legal Business Entity *Note: If selecting this option, "Reporting Entity" refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)* ☐ Organizational Unit within and operating under the authority of the Legal Business Entity SEE DEFINITIONS OF "REPORTING ENTITY" AND "ORGANIZATIONAL UNIT" FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION. *Note: If selecting this option, "Reporting Entity" refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)*	
IDENTIFYING INFORMATION	
a) Reporting Entity Name	
Address of the Primary Place of Business (street, city, state, zip code)	Telephone ext.
b) Describe the relationship of the Reporting Entity to the Legal Business Entity	
c) Attach an organizational chart	
d) Does the Reporting Entity have a DUNS Number?	☐ Yes ☐ No
If "Yes," enter DUNS Number	
e) Identify the designated manager(s) responsible for the business of the Reporting Entity. *For each person, include name and title. Attach additional pages if necessary.*	

Name	Title

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each "Yes," provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each "Other," provide an explanation which provides the basis for not definitively responding "Yes" or "No." Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY ***Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:***	
3.0 Sanctioned relative to any business or professional permit and/or license?	☐ Yes ☐ No ☐ Other
3.1 Suspended, debarred, or disqualified from any government contracting process?	☐ Yes ☐ No ☐ Other
3.2 The subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	☐ Yes ☐ No ☐ Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	☐ Yes ☐ No ☐ Other
For each "Yes" or "Other" explain:	

IV. INTEGRITY – CONTRACT BIDDING ***Within the past five (5) years, has the reporting entity*:**	
4.0 Been suspended or debarred from any government contracting process or been disqualified on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, debarment for a violation of New York State Workers' Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	☐ Yes ☐ No
4.1 Been subject to a denial or revocation of a government prequalification?	☐ Yes ☐ No
4.2 Been denied a contract award or had a bid rejected based upon a non-responsibility finding by a government entity?	☐ Yes ☐ No
4.3 Had a low bid rejected on a government contract for failure to make good faith efforts on any Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise goal or statutory affirmative action requirements on a previously held contract?	☐ Yes ☐ No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a government entity?	☐ Yes ☐ No
4.5 Initiated a request to withdraw a bid submitted to a government entity in lieu of responding to an information request or subsequent to a formal request to appear before the government entity?	☐ Yes ☐ No
For each "Yes," explain:	

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

V. INTEGRITY – CONTRACT AWARD ***Within the past five (5) years, has the reporting entity*:**	
5.0 Been suspended, cancelled or terminated for cause on any government contract including, but not limited to, a non-responsibility finding?	☐ Yes ☐ No
5.1 Been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any government contract?	☐ Yes ☐ No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a government entity?	☐ Yes ☐ No
For each "Yes," explain:	

VI. CERTIFICATIONS/LICENSES ***Within the past five (5) years, has the reporting entity*:**	
6.0 Had a revocation, suspension or disbarment of any business or professional permit and/or license?	☐ Yes ☐ No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of Minority-Owned Business Enterprise, Women-Owned Business Enterprise or federal certification of Disadvantaged Business Enterprise status for other than a change of ownership?	☐ Yes ☐ No
For each "Yes," explain:	

VII. LEGAL PROCEEDINGS ***Within the past five (5) years, has the reporting entity*:**	
7.0 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation?	☐ Yes ☐ No
7.1 Been the subject of an indictment, grant of immunity, judgment or conviction (including entering into a plea bargain) for conduct constituting a crime?	☐ Yes ☐ No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	☐ Yes ☐ No
7.3 Had a government entity find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	☐ Yes ☐ No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any government entity involving a violation of federal, state or local environmental laws?	☐ Yes ☐ No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by government entities which in the aggregate total $25,000 or more; or b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any government entity?	☐ Yes ☐ No
For each "Yes," explain:	

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the Reporting Entity received any formal unsatisfactory performance assessment(s) from any government entity on any contract?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the Reporting Entity had any liquidated damages assessed over $25,000?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any liens or judgments (not including UCC filings) over $25,000 been filed against the Reporting Entity which remain undischarged?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the Reporting Entity initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	☐ Yes ☐ No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the Reporting Entity failed to file or pay any tax returns required by federal, state or local tax laws?	☐ Yes ☐ No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the Reporting Entity failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the Reporting Entity failed to file or pay any New York State unemployment insurance returns?	☐ Yes ☐ No
If "Yes," provide the years the Reporting Entity failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the Reporting Entity had any government audit(s) completed?	☐ Yes ☐ No
a) If "Yes," did any audit of the Reporting Entity identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any material disallowance?	☐ Yes ☐ No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

IX. ASSOCIATED ENTITIES

This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.

(See definition of "associated entity" for additional information to complete this section.)

9.0 Does the Reporting Entity have any Associated Entities? Note: All questions in this section must be answered if the Reporting Entity is either: – An Organizational Unit; or – The entire Legal Business Entity which controls, or is controlled by, any other entity(ies). If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.	☐ Yes ☐ No
9.1 Within the past five (5) years, has any Associated Entity Official or Principal Owner been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the Associated Entity, his/her relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
9.2 Does any Associated Entity have any currently undischarged federal, New York State, New York City or New York local government liens or judgments (not including UCC filings) over $50,000?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the Lien holder or Claimant's name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
9.3 Within the past five (5) years, has any Associated Entity:	
a) Been disqualified, suspended or debarred from any federal, New York State, New York City or other New York local government contracting process?	☐ Yes ☐ No
b) Been denied a contract award or had a bid rejected based upon a non-responsibility finding by any federal, New York State, New York City, or New York local government entity?	☐ Yes ☐ No
c) Been suspended, cancelled or terminated for cause (including for non-responsibility) on any federal, New York State, New York City or New York local government contract?	☐ Yes ☐ No
d) Been the subject of an investigation, whether open or closed, by any federal, New York State, New York City, or New York local government entity for a civil or criminal violation with a penalty in excess of $500,000?	☐ Yes ☐ No
e) Been the subject of an indictment, grant of immunity, judgment, or conviction (including entering into a plea bargain) for conduct constituting a crime?	☐ Yes ☐ No
f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any federal, New York State, New York City, or New York local government entity?	☐ Yes ☐ No
g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	☐ Yes ☐ No
For each "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

X. FREEDOM OF INFORMATION LAW (FOIL)	
10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.	☐ Yes ☐ No
If "Yes," indicate the question number(s) and explain the basis for the claim.	

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE		
Name	Telephone ext.	Fax
Title	Email	

NYS Vendor ID: _____

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the submitting Business Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official _____

Printed Name of Signatory _____

Title _____

Name of Business _____

Address _____

City, State, Zip _____

Sworn to before me this _____ day of _____, 20___;

_____ Notary Public

New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA
(12/11)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help?* on back).

Contractor name				*For covered agency use only* *Contract number or description*
Contractor's principal place of business	City	State	ZIP code	
Contractor's mailing address *(if different than above)*				*Estimated contract value over the full term of contract (but not including renewals)* $
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)			
Contractor's telephone number	Covered agency name			
Covered agency address				*Covered agency telephone number*

I, _____ , hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an **X** *in only one box)*

☐ The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

☐ The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ___ day of _____, 20 ____

_____ _____
(sign before a notary public) *(title)*

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency,* with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. See *Need help?* for more information on how to obtain this publication. In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);

ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and

iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of $100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ___ day of _____ in the year 20__ , before me personally appeared _____ ,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____; and further that:

[Mark an ***X*** in the appropriate box and complete the accompanying statement.]

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _he is the _____

of _____ , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _he is a _____

of _____ , the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____ , LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____
Notary Public

Registration No. _____

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Visit our Web site at ***www.tax.ny.gov***
- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

Department of Taxation and Finance

Contractor Certification

(Pursuant to Tax Law Section 5-a, as amended, effective April 26, 2006)

ST-220-TD

(4/15)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

Contractor name			
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address *(if different than above)*	City	State	ZIP code

Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)	Contractor's telephone number ( )
Covered agency or state agency	Contract number or description	Covered agency telephone number ( )
Covered agency address	City State	ZIP code

Is the estimated contract value over the full term of the contract (but not including renewals) more than $100,000?

Yes ☐ No ☐ Unknown at this time ☐

General information

Tax Law section 5-a, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than $100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file Form ST-220-CA, *Contractor Certification to Covered Agency,* certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and *Individual, Corporation, Partnership, or LLC Acknowledgement* on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and Tax Law section 5-a, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227-0826

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?

Visit our Web site at ***www.tax.ny.gov***

- get information and manage your taxes online
- check for new online services and features

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I, _____ , hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*

of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make **only one** entry in each section.

Section 1 – Contractor registration status

☐ The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253, and is listed on Schedule A of this certification.

☐ The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 – Affiliate registration status

☐ The contractor does not have any affiliates.

☐ To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the $300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253. The contractor has listed each affiliate exceeding the $300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

☐ To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 – Subcontractor registration status

☐ The contractor does not have any subcontractors.

☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the $300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253. The contractor has listed each subcontractor exceeding the $300,000 cumulative sales threshold during such quarters on Schedule A of this certification.

☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ___ day of _____ , 20 ____

_____ _____
(sign before a notary public) *(title)*

Schedule A – Listing of each entity (contractor, affiliate, or subcontractor) exceeding $300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the $300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Relationship to contractor	B Name	C Address	D Federal ID number	E Sales tax ID number	F Registration in progress

Column A – Enter ***C*** in column A if the contractor; ***A*** if an affiliate of the contractor; or ***S*** if a subcontractor.

Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.

Column C – Address - Enter the street address of the entity's principal place of business. Do not enter a PO box.

Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.

Column E – Sales tax ID number - Enter only if different from federal EIN in column D.

Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ____ day of _____ in the year 20__ , before me personally appeared _____ ,

known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_ he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____; and further that:

*(Mark an **X** in the appropriate box and complete the accompanying statement.)*

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): _he is the _____

of _____ , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): _he is a _____

of _____ , the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____
Notary Public

Registration No. _____

NEW YORK STATE OFFICE OF THE STATE COMPTROLLER

SUBSTITUTE FORM W-9:

REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.

Part I: Vendor Information

1. Legal Business Name:	2. Business name/disregarded entity name, if different from Legal Business Name:

3. Entity Type (Check one only):

☐ Individual Sole Proprietor ☐ Partnership ☐ Limited Liability Co. ☐ Corporation ☐ Not For Profit

☐ Trusts/Estates ☐ Federal, State or Local Government ☐ Public Authority ☐ Disregarded Entity

☐ Other _____

☐ **Exempt Payee**

Part II: Taxpayer Identification Number (TIN) & Taxpayer Identification Type

1. Enter your TIN here: *(DO NOT USE DASHES)*
See instructions.

2. Taxpayer Identification Type (check appropriate box):

☐ Employer ID No. (EIN) ☐ Social Security No. (SSN) ☐ Individual Taxpayer ID No. (ITIN) ☐ N/A (Non-United States Business Entity)

Part III: Address

1. Remittance Address:	2. Ordering Address:
Number, Street, and Apartment or Suite Number	Number, Street, and Apartment or Suite Number
City, State, and Nine Digit Zip Code or Country	City, State, and Nine Digit Zip Code or Country
	Email Address

Part IV: Vendor Primary Contact Information – Executive Authorized to Represent the Vendor

Primary Contact Name: _____ Title:_____

Email Address: _____ Phone Number: _____

Part V: Certification and Exemption from Backup Withholding

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (TIN), and
2. I am a U.S. citizen or other U.S. person, and
3. (Check one only):

☐ **I am not subject to backup withholding.** *I am (a) exempt from back up withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding),or*

☐ **I am subject to backup withholding.** *I have been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, and I have not been notified by the IRS that I am no longer subject to back withholding.*

Sign Here:

_____ Signature _____ Title _____ Date

_____ Print Preparer's Name _____ Phone Number _____ Email Address

DO NOT SUBMIT FORM TO IRS — SUBMIT FORM TO NYS ONLY AS DIRECTED

NYS Office of the State Comptroller

Instructions for Completing Substitute Form W-9

New York State (NYS) must obtain your correct Taxpayer Identification Number (TIN) to report income paid to you or your organization. NYS Office of the State Comptroller uses the Substitute Form W-9 to obtain certification of your TIN in order to ensure accuracy of information contained in its payee/vendor database and to avoid backup withholding.[1] We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States. You are required to give us the information.

Any payee/vendor who wishes to do business with New York State must complete the Substitute Form W-9. Substitute Form W-9 is the only acceptable documentation. We will not accept IRS Form W-9.

Part I: Vendor Information

1. **Legal Business Name**: For individuals, enter the name of the person who will do business with NYS as it appears on the Social Security card or other required Federal tax documents. An organization should enter the name shown on its charter or other legal documents that created the organization. Do not abbreviate names.
2. **Business name/disregarded entity name, if different from Legal Business Name:** Enter your DBA name or another name your entity is known by.
3. **Entity Type**: Check the Entity Type doing business with New York State.

Part II: Taxpayer Identification Number (TIN) and Taxpayer Identification Type

The TIN provided must match the name in the "Legal Business Name" box to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, refers to IRS W-9 instructions for additional information. For other entities, it is your employer identification number (EIN). If you do not have a number or if the account is in more than one name, refer to IRS W-9 instructions for additional information.

1. **Taxpayer Identification Number:** Enter your nine-digit Social Security Number, Individual Taxpayer Identification Number (ITIN) or Employer Identification Number (EIN).
2. **Taxpayer Identification Type:** Check the type of identification number provided.

Part III: Address

1. Remittance Address: Enter the address where payments, 1099s, if applicable, and official correspondence should be mailed. This will become the default address.
2. Ordering Address: Enter the address where purchase orders should be sent. Please note that purchase orders will be sent via email by default.

Part IV: Vendor Primary Contact Information

Please provide the contact information for an executive at your organization. This individual should be the person who makes legal and financial decisions for your organization. Name, phone number and email address are required.

Part V: Certification and Exemption from Backup Withholding

Check the appropriate box indicating your exemption status from backup withholding. Individuals and sole proprietors are not exempt from backup withholding. Corporations are exempt from backup withholding for certain types of payments. Refer to IRS Form W-9 instructions for additional information. The signature should be provided by the individual, owner, officer, legal representative, or other authorized person of the entity listed on the form. Certain exceptions to the signature requirement are listed in the IRS instructions for form W-9.

[1] According to IRS Regulations, OSC must withhold 28% of all payments if a payee/vendor fails to provide OSC its certified TIN. The Substitute Form W-9 certifies a payee/vendor's TIN.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

January 2014

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

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

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

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

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of

any State approved sums due and owing for work done upon the project.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00,

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

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

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

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

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the contract, the Department of Civil Service and the State Comptroller.

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

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.
To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

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

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

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

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

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GENERAL

1. ETHICS COMPLIANCE All Bidders/Contractors and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

2. DEFINITIONS Terms used herein shall have the following meanings:

a. AUTHORIZED USER Authorized User shall have the meaning set forth in State Finance Law Section 163(1)(k) and includes, but is not limited to, New York State Agencies, political subdivisions, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations.

b. BID A response to the Solicitation submitted by a Bidder to provide Products.

c. BIDDER Any person or entity who submits a response to the Solicitation. At the time that a Bidder executes a Contract with the State, the Bidder shall become a "Contractor." See also "Contractor."

d. BID SPECIFICATIONS A written description drafted by OGS or an Authorized User setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a Product, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed Contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work. Where this Appendix B is incorporated in negotiated Contracts that have not been competitively solicited, the term "Bid Specifications" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

e. COMMISSIONER The Commissioner of OGS or his or her designee, or, in the case of Bid Specifications issued by an Authorized User, the head of such Authorized User or his or her authorized representative.

f. CONTRACT The writings that contain the agreement of the Commissioner and the Bidder/Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law, and which most typically include the following classifications of public procurements:

1. **Agency Specific Contracts** Contracts where the written description for a Product or a particular scope of work is described and defined to meet the needs of one or more Authorized Users.

2. **Centralized Contracts** Single- or multiple-award Contracts where the written description for a Product or general scope of work is described and defined by OGS to meet the needs of Authorized Users. Centralized Contracts may be awarded through multiple awards or through adoption of another jurisdiction's contract or on a sole source, single source, emergency, or competitive basis. Once established, procurements may be made from the selected Contractors without further competition or Mini-Bid unless otherwise required by the Contract.

3. **Back-Drop Contracts** Multiple-award Centralized Contracts where OGS provides a written description for a Product or general scope of work to meet the needs of Authorized Users. Bids may be submitted either at a date and time certain or may be accepted on a continuous or periodic recruitment basis, as set forth in the Solicitation. Selection of a Contractor from among Back-Drop contract holders for an actual Product, project or particular scope of work may be subsequently made as set forth in the Contract.

4. **Piggyback Contract** A Contract let by any department, agency or instrumentality of the United States government, or any department, agency, office, political subdivision or instrumentality of any state or group of states that is adopted and extended for use by OGS in accordance with the requirements of the State Finance Law.

5. **Contract Letter** A letter to the successful Bidder indicating acceptance of its Bid in response to a Solicitation. Unless otherwise specified, the issuance of a letter of acceptance forms a Contract but is not an order for Product, and the Contractor should not take any action with respect to actual Contract deliveries except on the basis of Purchase Orders sent from Authorized Users.

g CONTRACT AWARD NOTIFICATION An announcement to Authorized Users that a Contract has been established.

h. CONTRACTOR Any successful Bidder to whom a Contract has been awarded by the Commissioner.

i. DOCUMENTATION The complete set of manuals (e.g., user, installation, instruction or diagnostic manuals) in either hard or electronic copy, that are necessary to enable an Authorized User to properly test, install, operate and enjoy full use of the Product.

j. ENTERPRISE The total business operations in the United States of an Authorized User without regard to geographic location where such operations are performed or the entity actually performing such operations on behalf of the Authorized User.

k. ENTERPRISE LICENSE A license grant of unlimited rights to deploy, access, use and execute Product anywhere within the Enterprise up to the maximum capacity stated on the Purchase Order or in the Contract.

***l.* ERROR CORRECTIONS** Machine executable software code furnished by Contractor which corrects the Product so as to conform to the applicable warranties, performance standards and/or obligations of the Contractor.

m. GROUP A classification of a Product that is designated by OGS.

n. INVITATION FOR BIDS (IFB) A type of Solicitation that is most typically used for procurements where requirements can be stated and award will be made based on lowest price to the responsive and responsible Bidder or Bidders.

o. LICENSED SOFTWARE Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes

Error Corrections, upgrades, enhancements or New Licensed Software Releases, and any deliverables due under a technical support/maintenance or service contract (e.g., patches, fixes, PTFs, programs, code or data conversion, or custom programming).

p. LICENSEE An Authorized User who acquires Product from Contractor by issuing a Purchase Order in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the individual Authorized User who took receipt of and who is executing the Product, and who shall be solely responsible for performance and liabilities incurred. In the case of acquisitions by State Agencies, the Licensee shall be the State of New York.

q. LICENSE EFFECTIVE DATE The date Product is delivered to an Authorized User. Where a License involves Licensee's right to copy a previously licensed and delivered master copy of a program, the License Effective Date for additional copies shall be deemed to be the date on which the Purchase Order is executed.

r. LICENSOR A Contractor who transfers rights in proprietary Product to Authorized Users in accordance with the rights and obligations specified in the Contract.

s. MINI-BID A document used by an Authorized User containing transaction-specific requirements soliciting responses from Contractors previously qualified under a Centralized Contract for such Products.

t. NEW LICENSED SOFTWARE RELEASES (Licensed Software Revisions) Any commercially released revisions to the licensed version of Licensed Software as may be generally offered and available to Authorized Users who are current on technical support/maintenance. New Licensed Software Releases involve a substantial revision of functionality from a previously released version of the Licensed Software. Updates are provided when available, and Contractor is under no obligation to develop any future Product or functionality.

u. OGS The New York State Office of General Services.

v. PRODUCTS Items or deliverables under any Solicitation or Contract and may include commodities, services and/or technology.

w. PURCHASE ORDER The Authorized User's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Purchasing Card, electronic Purchase Order, or other authorized instrument).

x. REQUEST FOR PROPOSALS (RFP) A type of Solicitation that is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and where the award will be made based on "best value," as defined by the State Finance Law, to the responsive and responsible Bidder(s).

y. REQUEST FOR QUOTATION (RFQ) A type of Solicitation that can be used when a formal Bid opening is not required (e.g., discretionary, sole source, single source or emergency purchases).

z. RESPONSIBLE BIDDER A Bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill, judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the Commissioner. For purposes of being deemed responsible, a Bidder must also be determined to be in compliance with Sections 139-j and 139-k of the State Finance Law relative to restrictions on contacts during the procurement process and disclosure of contacts and prior findings of non-responsibility under these statutes.

aa. RESPONSIVE BIDDER A Bidder meeting the specifications or requirements prescribed in the Solicitation, as determined by the OGS Commissioner.

bb. SINGLE SOURCE A procurement where two or more Bidders can supply the required Product, and the Commissioner may award the contract to one Bidder over the other.

cc. SITE The location (street address) where Product will be delivered or executed.

dd. SOLE SOURCE A procurement where only one Bidder is capable of supplying the required Product.

ee. SOLICITATION Writings by the State setting forth the scope, terms, conditions and technical specifications for a procurement of Product. The procurement may be undertaken on a competitive or non-competitive basis. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotations (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions that are incorporated by reference, including but not limited to Appendix A (Standard Clauses for NYS Contracts), Appendix B (General Specifications), and identified attachments. Where the procurement is undertaken on a non-competitive basis, the term "Solicitation" shall be deemed to refer to all the terms and conditions identified by the State.

ff. SOURCE CODE The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine object code.

gg. STATE State of New York.

hh. STATE AGENCY OR AGENCIES The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.

ii. SUBCONTRACTOR Any individual or legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

jj. TERMS OF LICENSE The terms and conditions set forth in the Contract that are in effect and applicable to a Purchase Order at the time of order placement.

kk. VIRUS Any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

BID SUBMISSION

3. INTERNATIONAL BIDDING All Bids, including all information and Product required by the Solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be

expressed, and all payments shall be made, in United States Dollars ($US). Any Bids submitted which do not meet the above criteria will be rejected.

4. BID OPENING Bids may, as applicable, be opened publicly. The Commissioner reserves the right at any time to postpone or cancel a scheduled Bid opening.

5. LATE BIDS REJECTED For purposes of Bid openings held and conducted by OGS, a Bid must be received in such place as may be designated in the Solicitation or, if no place is specified, in the OGS Mailroom located in the Empire State Plaza, Albany, New York 12242, at or before the date and time established in the Solicitation for the Bid opening. For purposes of Bid openings held and conducted by Authorized Users other than OGS, the term late Bid is defined as a Bid not received in the location established in the Bid Specifications at or before the date and time specified for the Bid opening.

Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Solicitation are received or, (ii) in the case of a multiple award, an insufficient number of timely Bids were received to satisfy the multiple award; and acceptance of the late Bid is in the best interests of the Authorized Users. Bids submitted for continuous or periodic recruitment contract awards must meet the submission requirements associated with the Solicitation. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the Authorized User, shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance, shall not excuse late Bid submissions. Determinations relative to Bid timeliness shall be at the sole discretion of the Commissioner.

6. EXTRANEOUS TERMS Bids must conform to the terms set forth in the Solicitation. Extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid.

Extraneous terms submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form;

b. The writing must identify the particular Solicitation requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and

c. The Bidder shall enumerate the proposed addition, deletion, counter-offer, deviation, or modification from the Solicitation, and the reasons therefor.

No extraneous terms, whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Commissioner or Authorized User expressly accepts each such terms in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of extraneous terms.

7. CONFIDENTIAL/TRADE SECRET MATERIALS

a. CONTRACTOR Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Bidder. Marking the Bid as "confidential" or "proprietary" on its face or in the document header or footer shall not be considered by the Commissioner or Authorized User to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. The State's receipt/acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and federal laws.

b. COMMISSIONER OR AUTHORIZED USER Contractor warrants, covenants and represents that any confidential information obtained by Contractor, its agents, Subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the State or any Authorized User hereunder or received from another third party, will not be divulged to any third parties without the written consent of the Commissioner or Authorized User. Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information of the Authorized User, or otherwise obtained under the Freedom of Information Law or other applicable New York State laws and regulations. This warranty shall survive termination of this Contract. Contractor further agrees to take commercially reasonable steps to inform its agents, Subcontractors, officers, distributors, resellers or employees of the obligations arising under this clause to ensure such confidentiality.

8. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS If any portion of work being solicited is subject to the prevailing wage rate provisions of the Labor Law, the following shall apply:

a. PREVAILING WAGE RATE APPLICABLE TO BIDS A copy of the applicable prevailing wage rate schedule is attached to the Solicitation and may also be obtained by visiting www.labor.ny.gov and typing in the search box: Prevailing Wage Schedule Request. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or exceed the applicable prevailing wage rate(s) for the location where the work is to be performed. Bidders may not submit Bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. Bids that fail to comply with this requirement will be disqualified.

b. WAGE RATE PAYMENTS/CHANGES DURING CONTRACT TERM The wages to be paid under any resulting Contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is required that the Contractor keep

informed of all changes in the prevailing wage rates during the Contract term that apply to the classes of individuals supplied by the Contractor on any projects resulting from this Contract, subject to the provisions of the Labor Law. Contractor is solely liable for and must pay such required prevailing wage adjustments during the Contract term for its employees as required by law and is responsible for ensuring any Subcontractors utilized on the Contract also comply with the prevailing wage provisions of the New York State Labor Law.

c. ARTICLE 8 CONSTRUCTION/PUBLIC WORKS CONTRACTS In compliance with Article 8, Section 220 of the New York State Labor Law:

i. Posting The Contractor must publicly post on the work Site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

ii. Payroll Records Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over $25,000 where the Contractor maintains no regular place of business in the State, such records must be kept at the work Site. For building services contracts, such records must be kept at the work Site while work is being performed.

iii. Submission of Certified Payroll Transcripts for Public Works Contracts Only Contractors and Subcontractors on public works Contracts must submit monthly payroll transcripts to the Authorized User issuing the Purchase Order for the work. This provision does not apply to Article 9 of the Labor Law building services contracts.

iv. Day's Labor No laborers, workmen or mechanics in the employ of the Contractor, Subcontractor or other person doing or contracting to do all or part of the work contemplated by the Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five calendar days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. "Extraordinary emergency" shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the NYS Commissioner of Labor for the preservation of the Contract Site or for the protection of the life and limb of the persons using the Contract Site.

d. ARTICLE 9 BUILDING SERVICES CONTRACTS In compliance with Article 9, Section 230 of the New York State Labor Law:

i. Payroll Records Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. Where the Contractor or Subcontractor maintains no regular place of business in New York State, such records must be kept at the work Site while work is being performed.

ii. Overtime Employees of Contractors and Subcontractors who work in excess of eight hours in a day or forty hours in a week shall be paid at the overtime rate identified by the New York State Department of Labor.

9. TAXES

a. Unless otherwise specified in the Solicitation, Bid Specifications or Contract, the quoted Bid price includes all taxes applicable to the transaction.

b. Purchases made by the State of New York and certain non-State Authorized Users are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by a State Agency or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the Contractor was made to the State, an exempt organization under Section 1116 (a) (1) of the Tax Law. Non-State Authorized Users must offer their own proof of exemption upon request. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

c. Purchases by Authorized Users other than the State of New York may be subject to certain taxes which were not included in the Bid price, and in those instances the tax should be computed based on the Contract price and added to the invoice submitted to such entity for payment.

10. EXPENSES PRIOR TO CONTRACT EXECUTION The Commissioner and any Authorized User(s) are not liable for any costs incurred by a Bidder or Contractor in the preparation and production of a Bid, Mini-Bid, cost proposal revision, or for any work performed prior to Contract execution.

11. ADVERTISING RESULTS The prior written approval of the Commissioner is required in order for results of the Solicitation to be used by the Contractor as part of any commercial advertising. The Contractor shall also obtain the prior written approval of the Commissioner relative to the Solicitation or Contract for press or other media releases.

12. PRODUCT REFERENCES

a. "**Or Equal**" In all Solicitations or Bid Specifications, the words "or equal" are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Commissioner's decision as to acceptance of the Product as equal shall be final.

b. Discrepancies in References In the event of a discrepancy between the model number referenced in the Solicitation or Bid Specifications and the written description of the Products that cannot be reconciled, then the written description shall prevail.

13. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS Upon the conditions specified in the Solicitation and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements or in the Solicitation. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product unless such use is precluded due to health, welfare, safety requirements or by

the Solicitation. Where such use is not practical, suitable, or permitted by the Solicitation, Contractor shall deliver new materials in accordance with the "Warranties" set forth below.

Items with recycled, recyclable, recovered, refurbished or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

14. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS Bids offering Products that are manufactured or produced in public institutions will be rejected.

15. PRICING

a. Unit Pricing If required by the Solicitation, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item unless otherwise specified, in the Solicitation. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the Commissioner, such unit pricing is obviously erroneous.

b. Net Pricing Unless otherwise required by the Solicitation, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Solicitation.

c. "No Charge" Bid When Bids are requested on a number of Products as a Group or lot, a Bidder desiring to Bid "no charge" on a Product in the Group or lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the Commissioner.

d. Educational Pricing All Products to be supplied for educational purposes that are subject to educational discounts shall be identified in the Bid and such discounts shall be made available to qualifying institutions.

e. Third Party Financing If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract award to agree to the terms and conditions of a "Consent & Acknowledgment Agreement" in a form acceptable to the Commissioner.

f. Best Pricing Offer During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, at the discretion of the Commissioner, shall be immediately reduced to the lower price.

g. Specific price decreases:

(i) GSA Changes: Where net pricing under the Contract is based on an approved GSA schedule, price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after the date the approved GSA schedule pricing decreases during the Contract term; or

(ii) Commercial Price List Reductions: Where net pricing under the Contract is based on a discount from Contractor's list prices, price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after the date Contractor lowers its pricing to its customers generally or to similarly situated government customers during the Contract term; or

(iii) Special Offers/Promotions Generally: Where Contractor generally offers more advantageous special price promotions or special discount pricing to other customers during the Contract term for a similar quantity, and the maximum price or discount associated with such offer or promotion is better than the discount or net pricing otherwise available under this Contract, such better price or discount shall apply for similar quantity transactions under this Contract for the life of such general offer or promotion; and

(iv) Special Offers/Promotions to Authorized Users: Contractor may offer Authorized Users, under either this Contract or any other contracting vehicle, competitive pricing which is lower than the net pricing set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (iii).

Unless otherwise specified in the Solicitation, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order(s) from any Authorized User without being in conflict with, or having any obligation to comply on a global basis with, the terms of this clause.

h. Cost Proposal Revisions A Contractor may be solicited prior to Contract award to propose the best possible offer for the Product being bid on, in accordance with State Finance Law § 163(9)(c). A cost proposal revision must be a lower price than the initial price.

16. DRAWINGS

a. Drawings Submitted With Bid When the Solicitation requires the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Solicitation and shall, when approved by the Commissioner, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

b. Drawings Submitted During the Contract Term Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Authorized User's representative.

c. Accuracy of Drawings Submitted All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of Product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing Product, or carrying out any other requirements of the intended scope of work.

17. SITE INSPECTION Where a Site inspection is required, Bidder shall be required to inspect the Site, including environmental or other conditions, for pre-existing deficiencies that may affect the installed Product or that may affect Bidder's ability to properly deliver, install or otherwise provide the required Product. All inquiries regarding such conditions shall be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions that such inspection or inquiry might have disclosed. Bidder must provide a detailed explanation with its Bid if additional work is required under this clause in order to properly provide the required Product.

18. PURCHASING CARD The State's Purchasing Card program is designed to be an efficient and cost effective way to expedite purchases. The Purchasing Card (also referred to as the Procurement Card) is a credit card that enables Authorized Users to make authorized purchases directly from a Contractor without processing formal Purchase Orders. Purchasing Cards are issued to selected employees who are authorized to make purchases for the Authorized User. Cardholders can make purchases directly from any Contractor that accepts the Purchasing Card.

19. SAMPLES

a. Bidder Supplied Samples The Commissioner reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a Contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of the Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Solicitation or Contract reference.

A sample may be held by the Commissioner during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period, the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct the Commissioner as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

b. Enhanced Samples When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, the Commissioner may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

c. Conformance with Samples Submission of a sample (whether or not such sample is tested by, or for, the Commissioner) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Solicitation. If in the judgment of the Commissioner the sample or Product submitted is not in accordance with the specifications or testing requirements prescribed in the Solicitation, the Commissioner may reject the Bid. If an award has been made, the Commissioner may cancel the Contract at the expense of the Contractor.

d. Testing All samples are subject to tests in the manner and place designated by the Commissioner, either prior to or after Contract award. Unless otherwise stated in the Solicitation, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fail to meet Contract requirements may be at the expense of the Contractor.

e. Requests For Samples By Authorized Users Requests for samples by Authorized Users require the consent of the Contractor. Where Contractor refuses to furnish a sample, Authorized User may, in its sole discretion, make a determination on the performance capability of the Product or on the issue in question.

BID EVALUATION

20. BID EVALUATION The Commissioner reserves the right to accept or reject any and all Bids, or separable portions of Bids, and waive technicalities, irregularities, and omissions if the Commissioner determines the best interests of the State will be served. The Commissioner, in his/her sole discretion, may accept or reject illegible, incomplete or vague Bids and his/her decision shall be final. A conditional or revocable Bid which clearly communicates the terms or limitations of acceptance may be considered, and Contract award may be made in compliance with the Bidder's conditional or revocable terms in the Bid.

21. TIE BIDS In the event two Bids are found to be substantially equivalent, price shall be the basis for determining the award recipient. While prompt payment discounts will not be considered in determining the low Bid, the Commissioner may consider any prompt payment discount in resolving Bids which are otherwise tied. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of the Commissioner to award a Contract to one or more of such Bidders shall be final.

22. QUANTITY CHANGES PRIOR TO AWARD The Commissioner reserves the right, at any time prior to the award of a specific quantity Contract, to alter in good faith the quantities listed in the Solicitation. In the event such right is exercised, the lowest responsible Bidder meeting the Solicitation requirements will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.

23. TIMEFRAME FOR OFFERS The Commissioner reserves the right to make awards within sixty days after the date of the Bid opening or such other period of time as set forth in the Solicitation, during which period, Bids must remain firm and cannot be withdrawn. Where an award is not made within the sixty day period or other time specified as set forth in the Solicitation, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to the Commissioner written notice of the withdrawal of its Bid.

TERMS & CONDITIONS

24. CONTRACT CREATION / EXECUTION Except for contracts governed by Article 11-B of the State Finance Law, subject to and upon receipt of all required approvals as set forth in the Solicitation, a Contract shall be deemed executed and created with the successful Bidder(s) upon the Commissioner's mailing or electronic communication to the address on the Bid/Contract of: (i) the final Contract Award Notice; (ii) a fully executed Contract; or (iii) a Purchase Order authorized by the Commissioner.

25. OFFICIAL USE ONLY/NO PERSONAL USE The Contract is only for official use by Authorized Users. Use of the Contract for personal or private purposes is strictly prohibited.

26. PARTICIPATION IN CENTRALIZED CONTRACTS

a. State Agencies All State Agencies may utilize and purchase under any Centralized Contract let by the Commissioner, unless the Solicitation limits purchases to specific State Agencies.

b. Non-State Agency Authorized Users Authorized Users other than State Agencies are permitted to make purchases through

Centralized Contracts where permitted by law, the Contract or the Commissioner.

c. Voluntary Extension Purchase Orders issued against a Centralized Contract by any Authorized User not provided for in the Contract shall be honored by the Contractor at its discretion and only with the approval of the OGS Commissioner and any other approvals required by law.

d. Responsibility for Performance Participation in Centralized Contracts by Authorized Users is permitted upon the following conditions: (i) the responsibility with regard to performance of any contractual obligation, covenant, condition or term thereunder by any Authorized User other than State Agencies shall be borne and is expressly assumed by such Authorized User and not by the State; (ii) a breach of the Contract by any particular Authorized User shall neither constitute nor be deemed a breach of the Contract as a whole which shall remain in full force and effect, and shall not affect the validity of the Contract nor the obligations of the Contractor thereunder respecting non-breaching Authorized Users, whether State or otherwise; (iii) for a breach by an Authorized User other than a State Agency, the State specifically and expressly disclaims any and all liability for such breach; and (iv) each non-State Agency Authorized User and Contractor guarantees to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the non-State Agency Authorized User's or Contractor's failure to perform in accordance with its obligations under the Contract.

e. Contract Migration Authorized Users holding individual Contracts with a Contractor at the time that Contractor is awarded a Centralized Contract for the same Products shall be permitted to migrate to that Centralized Contract effective with its commencement date. Such migration shall not operate to diminish, alter or eliminate any right that the Authorized User otherwise had under the terms and conditions of their individual Contract.

27. MODIFICATION OF CONTRACT TERMS The terms and conditions set forth in the Contract shall govern all transactions by Authorized User(s) under this Contract. The Contract may only be modified or amended upon mutual written agreement of the Commissioner and Contractor.

The Contractor may, however, offer Authorized User(s) more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Authorized User(s) and Commissioner by the Contractor at the time of such offer.

Other than where such terms are more advantageous for the Authorized User(s) than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against Authorized User(s) unless authorized by the Commissioner or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed order forms, product literature, "shrink wrap" terms accompanying software upon delivery, or other documents) or by incorporating such terms onto order forms, Purchase Orders or other documents forwarded by the Contractor for payment, notwithstanding Authorized User's subsequent acceptance of Product, or that Authorized User has subsequently processed such document for approval or payment.

28. SCOPE CHANGES The Commissioner reserves the right to require, by written order, changes to the scope of the Contract, provided that such changes do not materially alter the general scope of the Contract. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under the Contract, whether or not changed by the order, the Commissioner shall, upon notice from Contractor as hereafter stated, make an equitable adjustment in the Contract price, the delivery schedule or both and shall modify the Contract. The Contractor must assert its right to an adjustment under this clause within thirty days from the date of receipt of the written order. However, if the Commissioner decides that the facts justify it, the Commissioner may provide an adjustment without receipt of a notice from Contractor. In the event of a dispute between the Contractor and the Commissioner, such dispute shall be resolved in accordance with the OGS Dispute Resolution Procedures; provided, however, that nothing in this clause shall excuse the Contractor from proceeding with the Contract as changed.

29. ESTIMATED/SPECIFIC QUANTITY CONTRACTS
Estimated quantity contracts, also referred to as indefinite delivery/indefinite quantity contracts, are expressly agreed and understood to be made for only the quantities, if any, actually ordered during the Contract term. No guarantee of any quantity is implied or given.

With respect to any specific quantity stated in the Contract, the Commissioner reserves the right after award to order up to 20% more or less (rounded to the next highest whole number) than the specific quantities called for in the Contract. Notwithstanding the foregoing, the Commissioner may purchase greater or lesser percentages of Contract quantities should the Commissioner and Contractor so agree. Such agreement may include an equitable price adjustment.

30. EMERGENCY CONTRACTS In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of Product, the Commissioner reserves the right to obtain such Product from any source, including but not limited to this Contract(s), as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim for lost profits for Product procured from other sources pursuant to this clause. The reasons underlying the finding that an emergency exists shall be included in the procurement record.

31. PURCHASE ORDERS Unless otherwise authorized in writing by the Commissioner, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Authorized User. Unless terminated or cancelled pursuant to the authority vested in the Commissioner, Purchase Orders shall be effective and binding upon the Contractor when placed in the mail or electronically transmitted prior to the termination of the Contract period, addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification.

All Purchase Orders issued pursuant to a Contract let by the Commissioner must bear the appropriate Contract number and, if necessary, required State approvals. As deemed necessary, the Authorized User may confirm pricing and other Product information with the Contractor prior to placement of the Purchase Order. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to complete any Purchase Order placed under the Contract. Unless otherwise specified, all Purchase Orders against Centralized Contracts will be placed by Authorized Users directly with the Contractor and any discrepancy between the terms stated on the Contractor's order form, confirmation or acknowledgment, and the Contract terms shall be resolved in favor

of the terms most favorable to the Authorized User. Should an Authorized User add written terms and conditions to the Purchase Order that conflict with the terms and conditions of the Contract, the Contractor has the option of rejecting the Purchase Order within five business days of its receipt but shall first attempt to negotiate the additional written terms and conditions in good faith with the Authorized User, or fulfill the Purchase Order. Notwithstanding the above, the Authorized User reserves the right to dispute any discrepancies arising from the presentation of additional terms and conditions with the Contractor.

If, with respect to an Agency Specific Contract let by the Commissioner, a Purchase Order is not received by the Contractor within two weeks after the issuance of a Contract Award Notification, it is the responsibility of the Contractor to request in writing that the appropriate Authorized User forward a Purchase Order. If, thereafter, a Purchase Order is not received within a reasonable period of time, the Contractor shall promptly notify in writing the appropriate purchasing officer in OGS. Failure to timely notify such officer may, in the discretion of the OGS Commissioner and without cost to the State, result in the cancellation of such requirement by the OGS Commissioner with a corresponding reduction in the Contract quantity and price.

32. PRODUCT DELIVERY Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract. Delivery shall be made within thirty calendar days after receipt of a Purchase Order by the Contractor, unless otherwise agreed to by the Authorized User and the Contractor. The decision of the Commissioner as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of a Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Commissioner and the Authorized User, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by the Authorized User. Failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Commissioner's discretion, the Contract.

33. WEEKEND AND HOLIDAY DELIVERIES Unless otherwise specified in the Contract or by an Authorized User, deliveries will be scheduled for ordinary business hours, Monday through Friday (excluding legal holidays observed by the State of New York). Deliveries may be scheduled by mutual agreement for Saturdays, Sundays or legal holidays observed by the State of New York where the Product is for daily consumption, an emergency exists, the delivery is a replacement, delivery is late, or other reasonable circumstance in which event the convenience of the Authorized User shall govern.

34. SHIPPING/RECEIPT OF PRODUCT

a. Packaging Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without any extra charges for packing materials, cases or other types of containers. The container shall become and remain the property of the Authorized User unless otherwise specified in the Contract documents.

b. Shipping Charges Unless otherwise stated in the Contract, all deliveries shall be deemed to be freight on board (F.O.B.) destination tailgate delivery at the dock of the Authorized User. Unless otherwise agreed, items purchased at a price F.O.B. shipping point plus transportation charges shall not relieve the Contractor from responsibility for safe and proper delivery notwithstanding the Authorized User's payment of transportation charges. Contractor shall be responsible for ensuring that the bill of lading states "charges prepaid" for all shipments.

c. Receipt of Product The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of the Authorized User. Any losses resulting from the Contractor's failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

35. TITLE AND RISK OF LOSS Notwithstanding the form of shipment, title or other property interest, risk of loss shall not pass from the Contractor to the Authorized User until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Contract or Purchase Order. Mere acknowledgment by Authorized User personnel of the delivery or receipt of goods (e.g., signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product that is substandard or does not comply with the Contract may be rejected or accepted on an adjusted price basis, as determined by the Commissioner.

36. RE-WEIGHING PRODUCT Deliveries are subject to re-weighing at the point of destination by the Authorized User. If shrinkage occurs which exceeds that normally allowable in the trade, the Authorized User shall have the option to require delivery of the difference in quantity or to reduce the payment accordingly. Such option shall be exercised in writing by the Authorized User.

37. PRODUCT SUBSTITUTION In the event a specified Product listed in the Contract becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Savings/Force Majeure clause), a Product deemed in writing by the Commissioner to be equal to or better than the specified Product must be substituted by the Contractor at no additional cost or expense to the Authorized User. Unless otherwise specified, any substitution of Product prior to the Commissioner's written approval may be cause for termination of Contract.

38. REJECTED PRODUCT When Product is rejected, it must be removed by the Contractor from the premises of the Authorized User within ten calendar days of notification of rejection by the Authorized User. Upon notification of rejection, risk of loss of rejected or non-conforming Product shall remain with Contractor. Rejected items not removed by the Contractor within ten calendar days of notification shall be regarded as abandoned by the Contractor, and the Authorized User shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Authorized User for any and all costs and expenses incurred in storage or effecting removal or disposition after the ten-calendar-day period.

39. INSTALLATION Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar the Product or render it unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the Site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or Site. Work shall be performed to cause the least inconvenience to the Authorized User(s) and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those

of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

40. REPAIRED OR REPLACED PRODUCTS, PARTS, OR COMPONENTS Where the Contractor is required to repair, replace or substitute Product or parts or components of the Product under the Contract, the repaired, replaced or substituted Products shall be subject to all terms and conditions for new parts and components set forth in the Contract including warranties, as set forth in the Warranties clause herein. Replaced or repaired Product or parts and components of such Product shall be new and shall, if available, be replaced by the original manufacturer's component or part. Remanufactured parts or components meeting new Product standards may be permitted by the Commissioner or Authorized User. Before installation, all proposed substitutes for the original manufacturers' installed parts or components must be approved by the Authorized User. The part or component shall be equal to or of better quality than the original part or component being replaced.

41. EMPLOYEES, SUBCONTRACTORS AND AGENTS All employees, Subcontractors or agents performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical and training qualifications set forth in the Contract, and must comply with all security and administrative requirements of the Authorized User. The Commissioner reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on professional, technical or training qualifications, quality of work or change in security status or non-compliance with Authorized User's security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms. The Commissioner reserves the right to reject and/or bar from any facility for cause any employee, Subcontractor, or agent of the Contractor.

42. ASSIGNMENT In accordance with Section 138 of the State Finance Law, the Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the Contract or its right, title or interest therein, or its power to execute such Contract to any other person, company, firm or corporation in performance of the Contract without the prior written consent of the Commissioner or Authorized User (as applicable); provided, however, any consent shall not be unreasonably withheld, conditioned, delayed or denied. Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignments with the State Comptroller. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, the Contractor shall submit the request for assignment to the Commissioner and seek written agreement from the Commissioner which will be filed with the State Comptroller. Commissioner shall use reasonable efforts to promptly respond to any request by Contractor for an assignment, provided that Contractor supplies sufficient information about the party to whom the Contractor proposes to assign the Contract.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the functions are transferred to a successor Agency or to another Agency that assumes OGS responsibilities for the Contract.

43. SUBCONTRACTORS AND SUPPLIERS The Commissioner reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, including, but not limited to: the company failed to solicit New York State certified minority- and women-owned business enterprises as required in prior OGS Contracts; the fact that such Subcontractor or supplier is on the New York State Department of Labor's list of companies with which New York State cannot do business; the Commissioner's determination that the company is not qualified or is not responsible; or the fact that the company has previously provided unsatisfactory work or services.

44. PERFORMANCE/BID BOND The Commissioner reserves the right to require a Bidder or Contractor to furnish, without additional cost, a performance, payment or Bid bond, negotiable irrevocable letter of credit, or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by the Commissioner.

45. SUSPENSION OF WORK The Commissioner, in his/her sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, in the best interests of the Authorized User. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or reduction in State spending, declaration of emergency, contract compliance issues or other circumstances. Upon issuance of such notice, the Contractor is not to accept any Purchase Orders, and shall comply with the suspension order. Activity may resume at such time as the Commissioner issues a formal written notice authorizing a resumption of performance under the Contract.

An Authorized User may issue a formal written notice for the suspension of work for which it has engaged the Contractor for reasons specified in the above paragraph. The written notice shall set forth the reason for such suspension and a copy of the written notice shall be provided to the Commissioner.

46. TERMINATION

a. For Cause For a material breach that remains uncured for more than thirty (30) calendar days or other longer period as specified by written notice to the Contractor, the Contract or Purchase Order may be terminated by the Commissioner or Authorized User respectively, at the Contractor's expense. Such termination shall be upon written notice to the Contractor. In such event, the Commissioner or Authorized User may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

b. For Convenience This Contract may be terminated at any time by the Commissioner for convenience upon sixty (60) calendar days or other longer period as specified by written notice, without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, the Authorized User shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and fulfill any outstanding Purchase Orders.

c. For Violation of Sections 139-j and 139-k of the State Finance Law The Commissioner reserves the right to terminate the Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise his or her termination right by providing

written notification to the Contractor in accordance with the written notification terms of the Contract.

d. For Violation of Section 5-a of the New York State Tax Law The Commissioner reserves the right to terminate the Contract in the event it is found that the certification filed by the Contractor in accordance with Section 5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise his or her termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

e. For Non-Responsibility The Bidder agrees that if it is found by the State that the Bidder's responses to the Vendor Responsibility Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner at the Contractor's expense where the Contractor is determined by the Commissioner to be non-responsible. In such event, the Commissioner may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

f. Upon Conviction of Certain Crimes The Commissioner reserves the right to terminate the Contract in the event it is found that a member, partner, director or officer of Contractor is convicted of one or more of the following: Bribery Involving Public Servants and Related Offenses as defined in Article 200 of the New York State Penal Law; Corrupting the Government as defined in Article 496 of the New York State Penal Law; or Defrauding the Government as defined in Section 195.20 of the New York State Penal Law.

47. SAVINGS/FORCE MAJEURE A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled and is not due to the negligence or willful misconduct of the affected party. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, terrorism, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the Commissioner in the performance of the Contract where non-performance, by exercise of reasonable diligence, cannot be prevented.

The affected party shall provide the other party with written notice of any force majeure occurrence as soon as the delay is known and provide the other party with a written contingency plan to address the force majeure occurrence, including, but not limited to, specificity on quantities of materials, tooling, people, and other resources that will need to be redirected to another facility and the process of redirecting them. Furthermore, the affected party shall use its commercially reasonable efforts to resume proper performance within an appropriate period of time. Notwithstanding the foregoing, if the force majeure condition continues beyond thirty (30) days, the parties to the Contract shall jointly decide on an appropriate course of action that will permit fulfillment of the parties' objectives under the Contract.

The Contractor agrees that in the event of a delay or failure of performance by the Contractor under the Contract due to a force majeure occurrence:

a. The Commissioner may purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the State, or
b. The Contractor will provide Authorized Users with access to Products first in order to fulfill orders placed before the force majeure event occurred. The Commissioner agrees that Authorized Users shall accept allocated performance or deliveries during the occurrence of the force majeure event.

Neither the Contractor nor the Commissioner shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the Commissioner to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the Commissioner where the delay or failure will significantly impair the value of the Contract to the State or to Authorized Users, the Commissioner may terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the Commissioner reserves the right, in his or her sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss. In the event of a dispute between the Contractor and the Commissioner, such dispute shall be resolved in accordance with the OGS Dispute Resolution Procedures; provided, however, that nothing in this clause shall excuse the Contractor from performing in accordance with the Contract as changed.

48. CONTRACT INVOICING

a. Invoicing Contractor and the dealers/distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to each Authorized User in order to receive payment. Billing invoices submitted to an Authorized User must contain all information required by the Contract and the State Comptroller or other appropriate fiscal officer. Submission of an invoice and payment thereof shall not preclude the Commissioner from requesting reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

Contractor shall provide, upon request of the Commissioner, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in a commercially reasonable manner as requested by the Commissioner. The Commissioner may direct the

Contractor to provide the information to the State Comptroller or to any Authorized User of the Contract.

b. Payment of Contract Purchases made by an Authorized User when the State Comptroller is responsible for issuing such payment The Authorized User and Contractor agree that payments for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payments shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller website at **www.osc.state.ny.us**, by e-mail at **HelpDesk@sfs.ny.gov**, or by telephone at (518) 457-7737 or toll free (877) 737-4185. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract that are payable by the State Comptroller if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

c. Payment of Contract Purchases made by an Authorized User when the State Comptroller is not responsible for issuing such payment The Authorized User and Contractor agree that payments for such Contract purchases shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Authorized User. Such payments shall be as mandated by the appropriate governing law from the receipt of a proper invoice. Such Authorized User and Contractor are strongly encouraged to establish electronic payments.

49. DEFAULT – AUTHORIZED USER

a. Breach by Authorized User An Authorized User's breach shall not be deemed a breach of the Centralized Contract; rather, it shall be deemed a breach of the Authorized User's performance under the terms and conditions of the Centralized Contract.

b. Failure to Make Payment In the event a participating Authorized User fails to make payment to the Contractor for Products delivered, accepted and properly invoiced, within thirty calendar days of such delivery and acceptance, the Contractor may, upon five business days advance written notice to both the Commissioner and the Authorized User's purchasing official, suspend additional provision of Products to such entity until such time as reasonable arrangements have been made and assurances given by such entity for current and future Contract payments.

c. Notice of Breach Notwithstanding the foregoing, the Contractor shall, at least ten business days prior to declaring a breach of Contract by any Authorized User, by certified or registered mail, notify both the Commissioner and the purchasing official of the breaching Authorized User of the specific facts, circumstances and grounds upon which a breach will be declared.

d. Insufficient basis If the Contractor's basis for declaring a breach is insufficient, the Contractor's declaration of breach and failure to provide Products to an Authorized User may constitute a breach of the Contract, and the Authorized User may thereafter seek any remedy available at law or equity.

50. PROMPT PAYMENTS

a. State Agencies Upon acceptance of Product or as otherwise provided by Contract, Contractor may invoice for payment. The required payment date shall be thirty (30) calendar days, excluding legal holidays, from the receipt of a proper invoice, as determined in accordance with State Finance Law Section 179-f(2) and 2 NYCRR Part 18. The payment of interest on certain payments due and owed by the State Agency may be made in accordance with State Finance Law Sections 179-d et seq. and the implementing regulations (2 NYCRR § 18.1 et seq.).

b. By Non-State Agencies Upon acceptance of Product or as otherwise provided by Contract, Contractor may invoice for payment. The required payment date shall be thirty (30) calendar days, excluding legal holidays, or as mandated by the appropriate governing law from the receipt of a proper invoice. The terms of Article 11-A of the State Finance Law apply only to procurements by and the consequent payment obligations of State Agencies. Neither expressly nor by any implication is the statute applicable to non-State agency Authorized Users. Neither OGS nor the State Comptroller is responsible for payments on any purchases made by a non-State agency Authorized User.

c. By Contractor Should the Contractor be liable for any payments to the State hereunder, interest, late payment charges and collection fee charges will be determined and assessed pursuant to Section 18 of the State Finance Law.

51. REMEDIES FOR BREACH It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

a. Cover/Substitute Performance In the event of Contractor's material, uncured breach, the Commissioner may, with or without issuing a formal Solicitation: (i) purchase from other sources; or (ii) if the Commissioner is unsuccessful after making reasonable attempts, under the circumstances then-existing, to timely obtain acceptable replacement Product of equal or comparable quality, the Commissioner may acquire acceptable replacement Product of lesser or greater quality.

Such purchases may be deducted from the Contract quantity without penalty or liability to the State. The Commissioner agrees that Authorized Users shall accept allocated performance or deliveries during a period where Contractor is making good faith efforts to cure a material breach.

b. Withhold Payment In any case where a reasonable question of material, uncured non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Commissioner. Should Contractor and the Commissioner fail to agree upon the question of "materiality" in an instance of non-performance, such failure to agree shall be a dispute to be resolved in accordance with the OGS Dispute Resolution Procedures.

c. Bankruptcy In the event that the Contractor files, or there is filed against Contractor, a petition under the U.S. Bankruptcy Code during the term of this Centralized Contract, Authorized Users may, at their discretion, make application to exercise their right to set-off against monies due the debtor or, under the doctrine of recoupment, be credited the amounts owed by the Contractor arising out of the same transactions.

d. Reimbursement of Costs Incurred The Contractor agrees to reimburse the Authorized User promptly for any and all additional costs and expenses incurred for acquiring acceptable replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted

for any default on the part of the Contractor, all costs and expenses, including reasonable attorney's fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, the ordering Authorized User may obtain replacement Product temporarily and the cost of the replacement Product shall be deducted from the Contract quantity without penalty or liability to the State.

e. Deduction/Credit Sums due as a result of these remedies may be deducted or offset by the Authorized User from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the Authorized User the amount of such claim or portion of the claim still outstanding, on demand. The Commissioner reserves the right to determine the disposition of any rebates, settlements, restitution, damages, etc., that arise from the administration of the Contract.

52. ASSIGNMENT OF CLAIM Contractor hereby assigns to the State any and all claims for overcharges associated with this Contract that may arise under the antitrust laws of the United States, 15 USC Section 1, et seq. and the antitrust laws of the State of New York, General Business Law Section 340, et seq.

53. TOXIC SUBSTANCES Each Contractor furnishing a toxic substance, as defined by Section 875 of the Labor Law, shall provide such Authorized User with not less than two copies of a Material Safety Data Sheet, which sheet shall include for each such substance the information outlined in Section 876 of the Labor Law.

Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the Authorized User representative.

54. INDEPENDENT CONTRACTOR It is understood and agreed that the legal status of the Contractor, its Subcontractors, agents, officers and employees under this Contract is that of an independent contractor, and in no manner shall they be deemed employees of the Authorized User, and therefore are not entitled to any of the benefits associated with such employment.

55. SECURITY Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Authorized User(s) in performance of the Contract including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

56. COOPERATION WITH THIRD PARTIES The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of the Authorized User, as necessary to ensure delivery or performance of Product.

57. CONTRACT TERM - RENEWAL In addition to any stated renewal periods in the Contract, any Contract or unit portion thereof let by the Commissioner may be extended by mutual agreement of the Commissioner and the Contractor for an additional period(s) of up to one year. Such extension may be exercised on a month-to-month basis or in other stated periods of time during the one year extension.

58. WARRANTIES

a. Product Performance Contractor hereby warrants and represents that the Products acquired by the Authorized User under this Contract conform to the manufacturer's specifications, performance standards and Documentation and that the Documentation fully describes the proper procedure for using the Products.

b. Title and Ownership Contractor warrants and represents that it has (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver specified license rights to any Products acquired by Authorized User under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor shall indemnify Authorized Users and hold Authorized Users harmless from any damages and liabilities (including reasonable attorneys' fees and costs) arising from any breach of Contractor's warranties as set forth herein.

c. Product Warranty Contractor further warrants and represents that Products, components or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be free from defects in material and workmanship and will conform to all requirements of the Contract for the manufacturer's standard commercial warranty period, if applicable, or for a minimum of one (1) year from the date of acceptance, whichever is longer (the "Product warranty period").

During the Product warranty period, defects in the materials or workmanship of Products, components, or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be repaired or replaced by Contractor at no cost or expense to the Authorized User. Contractor shall extend the Product warranty period for individual Products, or for the system as a whole, as applicable, by the cumulative periods of time, after notification, during which an individual Product, or the system as a whole, requires repairs or replacement resulting in down time or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Any component or part replaced by the Contractor under the Contract warranties shall be guaranteed for the greater of: (i) the Product warranty period set forth herein; or (ii) the manufacturer's standard commercial warranty period offered for the component or part, if applicable.

All costs for materials, labor, and transportation incurred to repair or replace Products, parts, components, or systems as a whole during the warranty period shall be borne solely by the Contractor, and the State or Authorized User shall in no event be liable or responsible therefor.

Where Contractor, the independent software vendor (ISV), or other third-party manufacturer markets any Product delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the Product warranty and extended warranty periods. Where such standard commercial warranty covers all or some of the Product warranty or extended warranty periods, Contractor shall be responsible for the coordination during the Product warranty or extended warranty periods with ISV or other third-party manufacturers for warranty repair or replacement of ISV or other third-party manufacturer's Product.

Where Contractor, ISV or other third-party manufacturer markets any Product with a standard commercial warranty that goes beyond the Product warranty or extended warranty periods, Contractor shall notify the Authorized User and pass through the standard commercial warranty to Authorized User at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the standard commercial warranty after expiration of the Product warranty and extended warranty periods.

Unless recycled, recyclable, or recovered materials are available in accordance with the Remanufactured, Recycled, Recyclable or Recovered Materials clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered. Contractor further warrants and represents that no component or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

Contractor shall not be responsible for any modification of the Products made by an Authorized User without Contractor's approval.

d. Virus Warranty The Contractor represents and warrants that any Licensed Software acquired under the Contract by the Authorized User does not contain any known Viruses. Contractor is not responsible for Viruses introduced at Licensee's Site.

e. Date/Time Warranty Contractor warrants that Product furnished pursuant to this Contract shall, when used in accordance with the Product Documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: (i) consulting, integration, code or data conversion, (ii) maintenance or support services, (iii) data entry or processing, or (iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

f. Workmanship Warranty Contractor warrants that the services acquired under this Contract will be provided in a professional and workmanlike manner in accordance with industry standards. The Authorized User must notify Contractor of any services warranty deficiencies within ninety calendar days from performance of the services that gave rise to the warranty claim.

g. Survival of Warranties All warranties contained in this Contract shall survive the termination of this Contract.

h. Prompt Notice of Breach The Authorized User shall promptly notify the Contactor and the Commissioner in writing of any claim of breach of any warranty provided herein.

i. Additional Warranties Where Contractor, Product manufacturer or service provider generally offers additional or more advantageous warranties than those set forth herein, Contractor shall offer or pass through any such warranties to Authorized Users.

j. No Limitation of Rights The rights and remedies of the State and the Authorized Users provided in this clause are in addition to and do not limit any rights afforded to the State and the Authorized Users by any other clause of the Contract.

59. LEGAL COMPLIANCE Contractor represents and warrants that it shall secure all notices and comply with all applicable laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Solicitation and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by the Commissioner. Failure to comply or failure to provide proof may constitute grounds for the Commissioner to terminate or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.

60. INDEMNIFICATION Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully defend, indemnify and hold harmless the Authorized Users from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from this Contract, without limitation; provided, however, that the Contractor shall not indemnify to the extent any claim, loss or damage arising hereunder solely due to the negligent act, failure to act, gross negligence or willful misconduct of the Authorized Users.

The Authorized User shall give Contractor: (i) prompt written notice of any action, claim or threat of suit, or other suit for which Contractor is required to fully indemnify an Authorized User, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action, claim or suit at the expense of Contractor. Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, if it determines there is an issue involving a significant public interest.

In the event that an action or proceeding at law or in equity is commenced against the Authorized User arising out of a claim for death, personal injury or damage to real or personal tangible property caused by any intentional or willful act, gross negligence, or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from the Products supplied under this Contract, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Authorized User and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event attempt to secure a continuance to permit the State and the Authorized User to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the State and Authorized User may have. In the event of a dispute regarding the defense, the Contractor and the Attorney General shall try to reach an amicable resolution, but the Attorney General shall have the final determination on such matters.

61. INDEMNIFICATION RELATING TO INFRINGEMENT The Contractor will also defend, indemnify and hold the Authorized Users harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs in any action for infringement of a patent, copyright, trademark, trade secret or other proprietary right provided: (a) such claim arises solely out of the Products as supplied by the Contractor,

and not out of any modification to the Products made by the Authorized User or by someone other than Contractor at the direction of the Authorized User without Contractor's approval, and (b) Authorized User gives Contractor prompt written notice of any such action, claim suit or threat of suit alleging infringement.

The Authorized User shall give Contractor the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and to provide assistance in the defense of any such action, claim or suit at the expense of Contractor.

Such indemnity shall only be applicable in the event of claims, judgments, liabilities and/or costs that may be finally assessed against an Authorized User in any action for infringement of a patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims, judgments, liabilities and/or costs arise solely from the Authorized User's negligent act, failure to act, gross negligence or willful misconduct.

If usage of a Product shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the Authorized User the right to continue usage (ii) to modify the service or Product so that usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace such Product or parts thereof, as applicable, with non-infringing Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided that the Authorized User is given a refund for any amounts paid for the period during which usage was not feasible.

In the event that an action at law or in equity is commenced against the Authorized User arising out of a claim that the Authorized User's use of the Product under the Contract infringes any patent, copyright, trademark, trade secret or proprietary right, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Authorized User and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event protect the interests of the Authorized User and seek to secure a continuance to permit the Authorized User to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the Authorized User may have. This constitutes the Authorized User's sole and exclusive remedy for patent infringement, or for infringement of any other third party proprietary right.

62. LIMITATION OF LIABILITY Except as otherwise set forth in the Indemnification clause and the Indemnification Relating to Infringement clause, the limit of liability shall be as follows:

a. Contractor's liability for any claim, loss or liability arising out of, or connected with the Products provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the Purchase Order for the Products forming the basis of the Authorized User's claim or (ii) five hundred thousand dollars ($500,000), whichever is greater.

b. The Authorized User may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against the Authorized User unless Contractor at the time of the presentation of claim shall demonstrate to the Authorized User's satisfaction that sufficient monies are set aside by the Contractor in the form of a bond or through insurance coverage to cover associated damages and other costs.

c. Notwithstanding the above, neither the Contractor nor the Authorized User shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Authorized User, the Contractor, or by others.

63. DISPUTE RESOLUTION PROCEDURES
It is the policy of OGS to provide interested parties, as defined in the OGS Dispute Resolution Procedures, with an opportunity to administratively resolve disputes, complaints or inquiries related to Solicitations, contract awards and contract administration. OGS encourages interested parties to seek resolution of disputes through consultation with OGS staff. All such matters shall be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of the OGS Dispute Resolution Procedures may be obtained by contacting the designated contact for the Solicitation, the Contract manager, or at: **http://nyspro.ogs.ny.gov/content/dispute-resolution-procedures**. OGS reserves the right to change the procedures set forth in the Dispute Resolution Procedures without seeking a Contract amendment.

THE FOLLOWING CLAUSES PERTAIN TO TECHNOLOGY & NEGOTIATED CONTRACTS

64. SOFTWARE LICENSE GRANT Where Product is acquired on a licensed basis the following shall constitute the license grant:

a. License Scope Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up to the capacity measured by the applicable licensing unit stated on the Purchase Order (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by any Authorized Users otherwise licensed to use the Product, provided that any modifications, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or interest in any trademark, trade name, or service mark is granted hereunder.

b. License Term The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the license term shall be extended by the time period for testing, acceptance or trial.

c. Licensed Documentation If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) hard copy instructions for access by downloading from the Internet; and (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per Site

- Processing Capacity - 10 copies per Site

Software media must be in a format specified by the Authorized User, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the Terms of License.

d. Product Technical Support & Maintenance Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Centralized Contract term. Maintenance terms and any renewals thereof are independent of the expiration of the Centralized Contract term and shall not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of Error Corrections, updates, enhancements, revisions, fixes, upgrades and New Licensed Software Releases to Licensee, and (ii) help desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line help desk accessibility. Contractor shall maintain the Product so as to provide Licensee with the ability to utilize the Product in accordance with the Product Documentation without significant functional downtime to its ongoing business operations during the technical support/maintenance term.

Authorized User shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon notice to Contractor. In the event that Authorized User does not initially acquire or discontinues maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

e. Permitted License Transfers As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated Site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior Site. There shall be no additional license or other transfer fees due Contractor, provided that: (i) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred Site (e.g., named users, seats, or MIPS); or (ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred Site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

f. Restricted Use By Outsourcers, Facilities Management, Service Bureaus, or Other Third Parties Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: (i) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and (ii) such party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and (iii) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

Any third party with whom a Licensee has a relationship for a State function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

g. Archival Back-Up and Disaster Recovery Licensee may use and copy the Product and related Documentation in connection with: (i) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or corruption of the Product or disasters or emergencies that require Licensee to restore backups or to initiate disaster recovery procedures for its platform or operating systems; (ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage. The phrase "cold site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; (iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development.

h. Confidentiality Restrictions The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

i. Restricted Use by Licensee Except as expressly authorized by the Terms of License, Licensee shall not: (i) copy the Product; (ii) cause or permit reverse compilation or reverse assembly of all or any portion of the Product; or (iii) export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

65. PRODUCT ACCEPTANCE Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, an Authorized User shall have thirty (30) days from the date of delivery to accept hardware Products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Title or other property interest and risk of loss shall not pass from Contractor to the Authorized User until the Products have

been accepted. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Authorized User as of the expiration of that period. The license term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Commissioner or Authorized User agrees to accept the Product at completion of trial use.

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User shall have the option to run testing on the Product prior to acceptance, such tests and data sets to be specified by Authorized User. Where using its own data or tests, Authorized User must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Authorized User, and shall be made part of the Contractor's standard documentation. The test data shall remain accessible to the Authorized User after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, Authorized User shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional thirty (30) day increment. Authorized User shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Authorized User for damages, loss of profits, expenses, or other remuneration of any kind.

If the Authorized User elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have thirty (30) days to correct the deficiency, and the Authorized User shall have an additional sixty (60) days to evaluate the Product as provided herein. If the Product does not meet the specifications at the end of the extended testing period, Authorized User, upon prior written notice to Contractor, may then reject the Product and return all defective Product to Contractor, and Contractor shall refund any monies paid by the Authorized User to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the Authorized User's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability clause for any liability for costs incurred at the direction or recommendation of Contractor. When Product is not accepted, it must be removed by the Contractor from the premises of the Authorized User within ten calendar days of notification of non-acceptance by the Authorized User. Rejected items not removed by the Contractor within the ten calendar day period shall be regarded as abandoned by the Contractor and the Authorized User shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Authorized User for any costs incurred in storage or effecting removal or disposition after the ten calendar day period.

66. AUDIT OF LICENSED PRODUCT USAGE Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any Site where a copy of the Product resides provided that: (i) Contractor gives Licensee at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting firms from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit; and (v) if the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the net pricing in effect under the Contract at time of audit, or if none, then at the Contractor's U.S. commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall have no further liability of any kind for the unauthorized use of the software.

67. OWNERSHIP/TITLE TO PROJECT DELIVERABLES

a. Definitions

(i) For purposes of this clause, "Products." Deliverables furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, Source Code, object code).

(ii) For purposes of this clause, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this clause, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for Authorized User under the Contract.

b. Title to Project Deliverables Contractor acknowledges that it is commissioned by the Authorized User to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Solicitation or Purchase Order, the Authorized User shall have ownership and license rights as follows:

(i) Existing Products:

1. Hardware - Title and ownership of Existing Hardware Product shall pass to Authorized User upon acceptance.

2. Software - Title and ownership to Existing Software Products delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to Authorized User in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant Authorized User a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises Authorized User as part of Contractor's proposal that adaptation will violate existing agreements

or statutes and Contractor demonstrates such to the Authorized User's satisfaction) and distribute Existing Licensed Product to the Authorized User up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purposes stated in the Solicitation or Authorized User's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the Licensee where the Authorized User is a State Agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the ISV's owner's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Authorized User shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this clause.

(**ii) Custom Products**: Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to Authorized User the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. Authorized User may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of Authorized User taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all Authorized Users shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

c. Transfers or Assignments to a Third Party Financing Agent It is understood and agreed by the parties that a condition precedent to the consummation of the purchases under the Contract may be the obtaining of acceptable third party financing by the Authorized User. The Authorized User shall make the sole determination of the acceptability of any financing proposal. The Authorized User will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, Authorized User may assign or transfer its rights in Licensed Products (existing or custom) to a third party financing entity or trustee ("Trustee") as collateral where required by the terms of the financing agreement. Trustee's sole rights with respect to transferability or use of Licensed Products shall be to exclusively sublicense to Authorized User all of its Licensee's rights under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee's rights in such Licensed Product shall terminate immediately and Authorized User's prior rights to such Existing Licensed Product shall be revived.

d. Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS) The Authorized User's sale or other transfer of Custom Products which were acquired by the Authorized User using third party, tax-exempt financing may not occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Authorized User which complies with the terms of this clause.

e. Contractor's Obligation with Regard to ISV (Third Party) Product Where Contractor furnishes Existing Licensed Product(s) as a project deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Authorized User at Contractor's sole cost and expense.

68. PROOF OF LICENSE The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified License Confirmation Certificates in the name of such Licensee; or (ii) a written confirmation from the proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

69. PRODUCT VERSION Purchase Orders shall be deemed to reference Manufacturer's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by Authorized User and Contractor is willing to provide such version.

70. CHANGES TO PRODUCT OR SERVICE OFFERINGS

a. Product or Service Discontinuance Where Contractor is the Product Manufacturer/Developer, and Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor ("withdrawn support") is no longer going to be offered, Contractor shall be required to: (i) notify the Commissioner, each Licensee and each Authorized User then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: (a) the best terms offered by Contractor to any other customer, or (b) not less than twelve (12) months from the date of notice; and (iii) at Authorized User's option, provided that the Authorized User is under contract for maintenance on the date of notice, either: provide the Authorized User with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Authorized User to continue use and maintenance of the Product.

In the event that the Contractor is not the Product Manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of Contractor receiving notice from the Product Manufacturer, and (ii) include in such notice the period of time from the date of notice that the Product Manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to State approval, to an alternate Subcontractor.

b. Product or Service Re-Bundling In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall be required to: (i) notify the State and each Authorized User in writing

of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: (a) the best terms offered by Contractor to any other customer, or (b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed rebundling change to the Commissioner for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

71. NO HARDSTOP/PASSIVE LICENSE MONITORING

Unless an Authorized User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all upgrades do not and will not contain any computer code that would disable the Product or upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Contractor agrees that in the event of a breach or alleged breach of this provision that Authorized User shall not have an adequate remedy at law, including monetary damages, and that Authorized User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Authorized User shall be entitled.

72. SOURCE CODE ESCROW FOR LICENSED PRODUCT

If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) certify to the State that the Product manufacturer/developer has named the State, acting by and through the Authorized User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such Source Code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this clause.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

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QUICK GUIDE TO WORKERS' COMPENSATION AND DISABILITY INSURANCE DOCUMENTATION

The Office of the State Comptroller requires proof of (1) workers' compensation insurance coverage and (2) disability benefits insurance coverage when a state agency submits any type of agreement to the comptroller's office for approval.

This document is intended to assist businesses and other parties for expert service contracts to efficiently determine what form they should complete and submit concerning the New York State Workers' Compensation Program and Disability Insurance Program. This document does not constitute legal advice.

As an initial matter, businesses and other parties may wish to explore whether they are exempt from carrying (1) workers' compensation insurance coverage and/or (2) disability benefits insurance coverage. The business or other party can fill out Form CE-200 which is an Affidavit of Exemption from the workers' compensation and disability insurance coverage requirements if he or she is not required to carry the insurances.

Businesses and other parties may seek an exemption from workers' compensation requirement if:

- ☐ B. The business is owned by one individual and is not a corporation. Other than the owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.
- ☐ C. The business is a LLC, LLP, PLLP or a RLLP; OR is a partnership under the laws of New York State and is not a corporation. Other than the partners or members, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.
- ☐ D. The business is a one person owned corporation, with that individual owning all of the stock and holding all offices of the corporation. Other than the corporate owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors.
- ☐ E. The business is a two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (each individual must hold an office and own at least one share of stock). Other than the two corporate officers/owners, there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors.

Business and other parties may seek an exemption from disability requirement if:

- ☐ B. The business MUST be either: 1) owned by one individual; **OR** 2) is a partnership (including LLC, LLP, PLLP, RLLP, or LP) under the laws of New York State and is not a corporation; **OR** 3) is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation each individual must be an officer and own at least one share of stock); **OR** 4) is a business with no NYS location. In addition, the business does not require disability benefits coverage at this time since it has not employed one or more individuals on at least 30 days in any calendar year in New York State. (Independent contractors are not considered to be employees under the Disability Benefits Law.)

There are other potential grounds for an exemption, but they have not been discussed in this document. The paper version of form CE-200 is attached should the contractor wish to review it.

There are two ways to file the CE-200 Form: (1) via a paper submission or (2) and electronic submission.

Paper - The CE-200 application form should be completed in its entirety and submitted to the Workers' Compensation Board by mail or fax. The application will be processed in the order received and a certificate of attestation of exemption will be mailed to the applicant. This process may take up to four weeks to complete.

Electronic - For those who require an exemption immediately, please access the on-line application that can be found on the Board's website, at www.wcb.ny.gov Click the "WC/DB Exemption" button on the Board's main webpage and then click on "Request for WC/DB Exemption (Form CE-200)." Complete the CE-200 application questionnaire on-line. You will be able to immediately print the certificate of attestation of exemption after completing the on-line application to document that you have submitted the CE-200 form with the Workers' Compensation Board.

Businesses and other parties must provide a copy of the certificate of attestation (Form CE-200) or acceptable certification of (1) workers' compensation insurance coverage and (2) disability benefits insurance coverage to the Attorney General's Budget and Fiscal Management Bureau.

The five acceptable workers' compensation insurance certification forms are:

- Form C-105.2 – Certificate of Workers' Compensation Insurance issued by private insurance carriers;
- Form U-26.3-- issued by the State Insurance Fund;
- Form SI-12 – Certificate of Workers' Compensation Self-Insurance;
- Form GSI-105.2 Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- Form CE-200 -- Certificate of Attestation of Exemption from Workers' Compensation and/or Disability Benefits insurance coverage.

The three acceptable disability insurance certification forms are:

- Form DB-120.1 - Certificate of Disability Benefits Insurance; or
- Form DB-155- Certificate of Disability Benefits Self Insurance
- Form CE-200 -- Certificate of Attestation of Exemption from Workers' Compensation and/or Disability Benefits insurance coverage. (Conveniently, this is the same form for exemption from Workers Compensation Insurance.)

Please note the NYS Office of the Attorney General should be listed as the "issuing government agency" on form CE-200 or "entity requesting proof of coverage" on forms C-105.2, GSI-105.2 and DB-120.1.

Questions regarding coverage requirements may be directed to Walter Peretti of the Workers' Compensation Board's Compliance Division at 518-402-8330 or walter.peretti@wcb.ny.gov.

New York State Workers' Compensation Board

Application for Certificate of Attestation of Exemption

from New York State Workers' Compensation and/or Disability Benefits Insurance Coverage.

For NYS workers' compensation exemption, this application may only be completed by entities with no employees or out-of-state entities obtaining contracts for which ALL work is performed outside of NYS. For NYS disability benefits exemption, it may only be completed by entities without employees or those with employees, as defined by the NYS Disability Benefits Law, working in NYS for less than thirty days in a calendar year.

A certificate of attestation of exemption can ONLY be used to attest to a government entity that the applicant requesting a permit, license or contract from that government entity is not required to carry workers' compensation and/or disability benefits insurance.

The application must be completed in its entirety and submitted to the Workers' Compensation Board by fax or mail. The application will be processed in the order received and a certificate of attestation of exemption will be mailed to the applicant. This process may take up to four weeks.

To obtain a certificate immediately, please use the *on-line application* at *www.wcb.ny.gov*. Once the application is completed on-line, you can immediately print the certificate on your printer.

Please review the separate instructions (form CE-200 instructions) prior to completing this application. Please print clearly.

1. Applicant Personal Information:

First Name: _____ Last Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Country (If other than U.S.) _____

Personal Phone Number (_____) _____

2. Your Title (check only one)

- ☐ Sole Proprietor
- ☐ President
- ☐ Vice President
- ☐ Secretary
- ☐ Homeowner
- ☐ Treasurer
- ☐ Partner
- ☐ Member
- ☐ Trustee
- ☐ Board Member
- ☐ Other (please provide title) _____

3. Legal Entity Information:

Business Federal ID (If none, enter social security number): _____

Legal Entity Name: _____

Doing Business As Name_____

Business Phone: (_____)_____E-mail _____

☐ Check here if business address is the same as the applicant's personal address. If different, enter business address below.

Business Street Address: _____

City: _____ State: _____ Zip:_____

Country (If other than U.S.) _____

4. Permit/License/Contract Information:

A. Nature of Business:(please check only one)

- ☐ Construction/Carpentry
- ☐ Demolition
- ☐ Plumbing
- ☐ Restaurant / Food Service
- ☐ Food CartVendor
- ☐ Homeowner
- ☐ Bar / Tavern
- ☐ Electrical
- ☐ Landscaping
- ☐ Farm
- ☐ Trucking / Hauling
- ☐ Horse Trainer/Owner
- ☐ Hotel / Motel
- ☐ Mobile - Home Park
- ☐ Other (please explain) _____

B. Applying for:

- ☐ License (list type) _____
- ☐ Permit (list type) _____
- ☐ Contract with Government Agency

Issuing Government Agency: _____
(e.g. New York City Building Department, Ulster County Health Department, New York State Department of Labor, etc.)

5. Job Site Location Information: (Required if applying for a building, plumbing, or electrical permit)

A. Job Site Address

Street address_____

City: _____ State: _____ Zip: _____County: _____

B. Dates of project: (mm/dd/yyyy) _____ to:(mm/dd/yyyy) _____

Estimated Dollar amount of project:

- ☐ $0 - $10,000
- ☐ 10,001- $25,000
- ☐ $25,001 - $50,000
- ☐ $50,001 - $100,000
- ☐ Over $100,000

6. Partners/Members/Corporate Officers -must list all with titles except for limited partnerships which must include only general partners. Sole proprietors can skip this section.

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

(Attach additional sheet if necessary)

Employees of the Workers' Compensation Board cannot assist applicants in answering questions in the following two sections. Please contact an attorney if you have any questions regarding these sections.

7. Please select the reason that the legal entity is NOT required to obtain New York State Specific Workers' Compensation Insurance Coverage:

☐ A. The applicant is NOT applying for a workers' compensation certificate of attestation of exemption and will show a separate certificate of NYS workers' compensation insurance coverage.

☐ B. The business is owned by one individual and is not a corporation. Other than the owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.

☐ C. The business is a LLC, LLP, PLLP or a RLLP; OR is a partnership under the laws of New York State and is not a corporation. Other than the partners or members, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors**.**

☐ D. The business is a one person owned corporation, with that individual owning all of the stock and holding all offices of the corporation. Other than the corporate owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors.

☐ E. The business is a two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (each individual must hold an office and own at least one share of stock). Other than the two corporate officers/owners, there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors.

☐ F. The applicant is a nonprofit (under IRS rules) with NO compensated individuals providing services except for clergy; or is a religious, charitable or educational nonprofit (Section 501(c)(3) under the IRS tax code) with no compensated individuals providing services except for clergy providing ministerial services; and persons performing teaching or nonmanual labor. [Manual labor includes but is not limited to such tasks as filing; carrying materials such as pamphlets, binders, or books; cleaning such as dusting or vacuuming; playing musical instruments; moving furniture; shoveling snow; mowing lawns; and construction of any sort.]

☐ G. The business is a farm with less than $1,200 in payroll the preceding calendar year.

☐ H. The applicant is a homeowner serving as the general contractor for his/her primary/secondary personal residence. The homeowner has no employees, day labor, leased employees, borrowed employees, part-time employees or subcontractors. The homeowner ONLY has uncompensated friends and family working on his/her residence.

☐ I. Other than the business owner(s) and individuals obtained from a temporary service agency, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors. Other than the business owner(s), all individuals providing services to the business are obtained from a temporary service agency and that agency has covered these individuals for New York State workers' compensation insurance. In addition, the business is owned by one individual or is a partnership under the laws of New York State and is not a corporation; or is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation, each individual must be an officer and own at least one share of stock). A Temporary Service Agency is a business that is classified as a temporary service agency under the business's North American Industrial Classification System (NAICS) code.
Temporary Service Agency

Name _____ Phone #_____

☐ J. The out-of-state entity has no NYS employees and/or NYS subcontractors AND ALL work related to the permit, license or contract is done outside of NYS; OR ALL employees are direct employees of a government entity outside of New York. Please provide coverage information.

Carrier_____Policy #_____

Policy start date _____Policy expiration date _____

8. Please select the reason that the legal entity is NOT required to obtain New York State Statutory Disability Benefits Insurance Coverage:

☐ A. The applicant is NOT applying for a disability benefits exemption and will show a separate certificate of NYS statutory disability benefits insurance coverage.

☐ B. The business MUST be either: 1) owned by one individual; **OR** 2) is a partnership (including LLC, LLP, PLLP, RLLP, or LP) under the laws of New York State and is not a corporation; **OR** 3) is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation each individual must be an officer and own at least one share of stock); **OR** 4) is a business with no NYS location. In addition, the business does not require disability benefits coverage at this time since it has not employed one or more individuals on at least 30 days in any calendar year in New York State. (Independent contractors are not considered to be employees under the Disability Benefits Law.)

☐ C. The applicant is a political subdivision that is legally exempt from providing statutory disability benefits coverage.

☐ D. The applicant is a nonprofit (under IRS rules) with NO compensated individuals providing services except for clergy; or is a religious, charitable or educational nonprofit (Section 501(c)(3) under the IRS tax code) with no compensated individuals providing services except for executive officers, clergy, sextons, teachers or professionals.

☐ E. The business is a farm and all employees are farm laborers.

☐ F. The applicant is a homeowner serving as the general contractor for his/her primary/secondary personal residence. The homeowner has not employed one or more individuals on at least 30 days in any calendar year in New York State. (Independent contractors are not considered to be employees under the Disability Benefits Law.)

☐ G. Other than the business owner(s) and individuals obtained from the temporary service agency, there are no other employees. Other than the business owner(s), all individuals providing services to the business are obtained from a temporary service agency and that agency has covered these individuals for New York State disability benefits insurance. In addition, the business is owned by one individual or is a partnership under the laws of New York State and is not a corporation; or is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation, each individual must be an officer and own at least one share of stock). A Temporary Service Agency is a business that is classified as a temporary service agency under the business's North American Industrial Classification System (NAICS) code.

9. I affirm that due to my position with the above-named business I have the knowledge, information and legal authority to make this Application for Certificate of Attestation of Exemption. I hereby affirm that the information provided above is true and that I have not submitted any materially false statements and I make this application for a Certificate of Attestation of Exemption under the penalties of perjury. I further affirm that I understand that any false statement, representation, or concealment will subject me to felony prosecution, including jail and civil liability in accordance with the Workers' Compensation Law and all other New York State Laws.

Signature Title Date