

Town of Saratoga

and

**HISTORIC HUDSON-HOOSIC RIVERS PARTNERSHIP
as established in ECL § 42-0103**

**COOPERATIVE AGREEMENT and LICENSE FOR LONG
TERM USE AND MAINTENANCE**

of

**30 Ferry Street, in the Village of Schuylerville, Town of Saratoga, County
of Saratoga, State of New York**

Cooperative Agreement

This Cooperative Agreement ("Agreement") made this 14 day of MARCH, 2014 by and between the **Town of Saratoga** (hereinafter "Town"), with offices at Town Hall, 12 Spring Street, Schuylerville, NY 12871, and the **Historic Hudson-Hoosic Rivers Partnership**, as established in New York State Environmental Conservation Law ("ECL") Section 42-0103 (hereinafter the "Licensee"), with a mailing address of c/o Thomas Richardson, Supervisor, City of Mechanicville, 112 South 4th Avenue, Mechanicville, NY 12118.

WITNESSETH:

WHEREAS, pursuant to the ECL § 42-0103(9) and Section 64 of Town Law, the parties are authorized to enter into this Cooperative Agreement to provide for the long term use, maintenance and construction of the Historic Hudson-Hoosic Rivers Partnership's Visitor Center and appurtenant grounds; and

WHEREAS, the Town owns a 2-acre parcel of land located at 30 Ferry Street, in the Village of Schuylerville, Town of Saratoga, County of Saratoga, State of New York which was the site of the former Saratoga Town Hall as described in Schedule A herein (hereinafter "Town Parcel") which has a unique historical connection to the purposes and functions of the Licensee as set forth in the ECL and is willing to make the Town Parcel available for the long term use and maintenance of Licensee; and

WHEREAS, the Licensee is a public benefit corporation created under and pursuant to the Laws of the State of New York whose mission is to preserve, enhance and develop the historic, agricultural, scenic, natural and recreational resources and the significant waterways within the historic region; and

WHEREAS, the Licensee desires to assume and continue responsibility for the long term use and maintenance of the Town Parcel to support its purposes and functions set forth in Article 42 of the ECL and the Town has determined that the best interests of the public will be served by the long term use and maintenance of the Town Parcel by the Licensee in cooperation with Town; and

WHEREAS, the New York State Legislature ("Legislature") has approved the use of specific appropriations, as set forth in Schedule B herein, for the long term use and occupancy and possible future ownership of the Town Parcel by Licensee. Additionally, the appropriations have also been provided to support the pre-development and development costs for the Licensee's visitor center including, but limited to, the site plan, visitor center specifications and plan, interpretation plan, a cultural resource inventory, an engineering report, plan implementation, building renovation, building construction and insurance of the building and grounds located within the Town Parcel, subject to certain conditions as more fully set forth in the respective

appropriations and associated Legislative Initiative Forms referenced in **Schedule B** herein or as otherwise approved by the Legislature in the future, and

WHEREAS, in order to advance the programmatic goals of the Licensee, the Town has agreed to facilitate the duly authorized disbursement of appropriations set forth in **Schedule B** herein when funds are available, or as funds are otherwise made available to Licensee in the future, subject to lawful appropriations and funding, on behalf of the Licensee, subject to a terms of a separate Grant Agreement between the Town, Licensee, and the New York State Office of Parks, Recreation and Historic Preservation ("Parks"), the state agency responsible for processing such funds, and

WHEREAS, the terms of this Cooperative Agreement are subject to a resolution issued after final approval by the membership of the Historic Hudson-Hoosic Rivers Partnership and the Saratoga Town Board.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Cooperative Agreement, Town and Licensee agree as follows:

1. Contract Documents

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

- i. Cooperative Agreement
- ii. Schedule A - "Description of the Licensed Premises"
- iii. Schedule B - "Appropriations"
- iv. Appendix A - "Required Clauses for All New York State Contracts"

b) In the event of any inconsistency in or conflict among the document elements of the Cooperative Agreement identified herein, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the order set forth below.

- i. Appendix A - "Required Clauses for All New York State Contracts;"
- ii. Cooperative Agreement, including all schedules and future amendments.

2. Licensed Premises

The "Licensed Premises" shall refer to the Town Parcel as described in **Schedule A** hereto. The Licensed Premises shall be restricted to the areas specifically described in **Schedule A** and Licensee shall have no rights beyond the described areas, except as may be provided specifically herein or hereafter expressly granted by Town in writing.

3. Term

Initial term: Fifty Years

Commences: April 1, 2014

Terminates: March 31, 2064, unless extended for an additional term equal to the initial term by mutual agreement in writing by the Town and Licensee at no additional cost or consideration paid to the Town by Licensee.

4. Grant of License

Town hereby grants to Licensee a license to occupy and use the Licensed Premises pursuant to the terms set forth herein for the purposes of the appropriations and respective Legislative Initiative Forms referenced in **Schedule B** herein. Town and Licensee hereby acknowledge that the Licensed Premises constitutes a public, non-residential space and that for all purposes hereunder Town grants only a right to use the Licensed Premises "as is/where is" and without warranty, and subject to Licensee performing and undertaking on-going maintenance, operating costs and certain renovations to be reviewed and approved in advance by the Town in accordance with the terms of this Cooperative Agreement.

5. Fees and Other Payments

a) Licensee shall pay to the Town the fees or other payments set forth herein upon approval by the New York State Comptroller of any duly executed grant agreement related to the appropriations set forth in **Schedule B** herein:

- 1) The fee of \$115,000, subject to lawful appropriations and the availability of funding, for the long term use and maintenance of the Licensed Premises, due and payable at the commencement of this Cooperation Agreement. It is agreed that the Licensee shall not enter into use or possession of the Licensed Premises until said fee has been paid in full.
- 2) The administration fee of 5% of any grant money managed by the Town on behalf of the Licensee, during the term of this Cooperation Agreement, payable quarterly upon voucher by the Town approved by Licensee which

shall be subject to the terms of the respective grant agreements associated with the appropriations set forth in **Schedule B** herein.

6. Conveyance of Fee Simple Title

The Town agrees to convey the Licensed Premises to Licensee, or non-profit or government entity identified by Licensee, as a gift without any additional consideration other than the fee set forth in Paragraph 5(a) above, upon receipt of a written request from the Licensee, provided that the use of the Licensed Premises shall remain consistent with the terms and purposes of the appropriations set forth in **Schedule B** herein.

7. Construction by Licensee

a) Licensee shall not erect any structures, make any modifications, alterations, additions, improvements, repairs or replacements or do any construction work on, to or affecting the Licensed Premises, or install any fixtures in or on the Licensed Premises without the prior written consent of Town and pursuant to a lawful procurement process as required by law.

b) Licensee has thoroughly examined and inspected the Licensed Premises and agrees to take the Licensed Premises "as is" in the existing condition on the date of this Cooperative Agreement.

c) Licensee agrees to perform at its sole cost and expense all construction and installation work, subject to appropriations and funding, that it may require for the public use of the Licensed Premises as provided by the terms of this Cooperative Agreement.

8. Housekeeping and Sanitation

a) Licensee shall at all times keep the Licensed Premises and any ancillary or common area used by Licensee in a clean and sanitary condition.

b) All State and local health and sanitary codes, standards and regulations, including sanitary standards established and issued by Town, shall be adhered to at all times.

9. Utilities, Trash and Debris

a) The Licensee shall be solely responsible for the cost of utilities, including but not limited to, electricity, fuel oil, natural gas, propane and telephone service, utilized at the Licensed Premises.

b) Town shall not be responsible for the installation of any water supply, sewers, drainpipes or fixtures, or electric, fuel oil or gas lines or fixtures beyond those already in

place prior to the granting of this Cooperative Agreement. If additional utility installations within the Licensed Premises are required as a result of a capital or other project proposed by Licensee, the full cost thereof shall be borne by Licensee unless otherwise agreed to by Town.

c) In the event of fluctuation or interruption of water supply, electricity, or other utility services to the Licensed Premises, Licensee shall be solely responsible for the cost and provision of its own sources of temporary power or other utilities as may be necessary.

d) The cost of storage, removal and disposal of all refuse and garbage generated from Licensee's performance hereunder is the sole responsibility of Licensee. Disposal of all refuse left by patrons on the Licensed Premises is the responsibility of Licensee. Licensee shall utilize weather and animal resistant containers for the storage of refuse.

10. Hazardous Materials

a) Licensee shall not use or permit the storage at the Licensed Premises of any hazardous substances or materials, including illuminating oils, oil lamps, turpentine, benzene, naphtha or other similar substances or explosives of any kind, or any substance or thing prohibited by the standard policies of fire insurance companies in the State of New York.

b) Licensee shall properly handle, store, and use all fuel, including propane tanks in a manner that meets all applicable building and fire codes, rules and regulations.

c) No fireworks, fireworks displays, or performances involving pyrotechnics of any kind are authorized or permitted pursuant to this Cooperative Agreement without the expressed prior written approval of Town.

11. Role of the Town as Payee under the Grant Agreement

a) The Town agrees to act as the "Payee" under any agreement entered into between Licensee and Parks as needed to facilitate the payment of the funds appropriated by the Legislature for the purposes set forth in the Legislative Initiative Forms related to the specific appropriations referenced in Schedule B herein ("Grant Agreement"). Accordingly, the Town shall be a party to the Grant Agreement, and shall be responsible for making payments from grant funds to vendors identified by Licensee by a written voucher or as otherwise established in the Grant Agreement.

12. Insurance

a) Unless otherwise certified as a self-insured entity to the satisfaction of the Town, and at all times prior to any conveyance of the fee simple title to the Licensed Premises by the Town pursuant to Paragraph 6 herein, Licensee shall procure at its sole cost and expense insurance with limits not less than those described below and as required by the

terms of this Cooperative Agreement, or as required by law, whichever is greater and shall provide coverage to Licensee and the Town for claims of damage to property and personal injuries, including death, which may arise from the conduct of Licensee subject to Section 18 of Public Officers Law. Limits may be provided through a combination of primary and umbrella/excess policies.

b) Upon annual renewal of insurance coverage, a current insurance certificate evidencing such insurance coverage must be submitted to the Town. Insurance shall be provided in the following minimum amounts:

i. **Commercial General Liability Insurance** with a limit of not less than one million dollars (\$1,000,000) per occurrence. Such coverage shall be written on the ISO CG 00 01 or substitute form providing equivalent coverages and shall cover liability arising from premises operations, products-completed operations and personal and advertising injury. Fire legal liability of \$500,000 is required; if such insurance contains an aggregate limit, it shall apply separately on a per-location basis, and

ii. In the event that Licensee operates an automobile or other motor vehicle in conjunction with any activities authorized by this Cooperative Agreement, then Licensee will obtain **Comprehensive Business Automobile Liability Insurance** with a limit of not less than one million dollars (\$1,000,000) for each accident. Such insurance shall cover liability arising out of any automobiles including owned, leased, hired and non-owned automobiles (if vehicles are utilized for operations under this Cooperative Agreement).

c) Licensee shall require that all independent contractors shall have insurance policies providing commercial general liability with a limit of not less than one million dollars (\$1,000,000), workers compensation, disability and comprehensive business automobile liability insurance to the extent set forth in the section. Licensee shall provide the Town with a certificate from such independent contractor evidencing such coverage, and naming the Town as additional insureds. In order to comply with Sections 57 and 220(8) of the Workers' Compensation Law, the Town requires annual proof of both Workers' Compensation Insurance and Disability Insurance. The following are the only acceptable means of proof (Please note that ACORD forms are NOT acceptable proof of coverage):

i. **Disability Benefits:**

- 1) WC/DB-100: Affidavit for New York Entities with no employees and certain out of state entities, that NYS Workers Compensation and/or Disability Benefits Insurance coverage is not required; or
- 2) DB-120.1: Certificate of Disability Benefits Insurance; or
- 3) DB-155: Certificate of Disability Benefits Self-Insurance.

ii. **Workers' Compensation:**

- 1) WC/DB-100(9-07): Affidavit for New York Entities with no employees and certain out of state entities, that NYS Workers Compensation and/or Disability Benefits Insurance coverage is not required; or
 - 2) C-105.2(9-07): Certificate of Workers' Compensation Insurance; note: the State Insurance Fund provides its own version of this form, the U-26.3; or
 - 3) SI-12: Certificate of Workers' Compensation Self-Insurance.
- d) Insurance coverage shall be provided only by an insurance carrier rated A- Class VII or better throughout the term of this Cooperative Agreement.
- e) All insurance policies and certificates shall name as additional insured "*Town of Saratoga, their officers, agents and employees.*" Designating Town as a "certificate holder" shall not constitute compliance with this section.
- f) All insurance coverage shall be written such that Town is afforded at least thirty (30) days prior notice of cancellation or modification of coverage.
- g) Licensee shall notify Town of any claims, including without limitation claims involving bodily injury, death or property damage, arising on or within the Licensed Premises. Such notice shall be provided in writing as soon as practicable, however in any event within five days of Licensee's receipt of notice of the accident or claim.
- h) Coverage required in this section and any insurance retention or deductible may be adjusted by the Town if, in its sole reasonable judgment, levels of risk associated with Licensee's operations require modification of coverage that is commercially available at commercially reasonable rates and carried by other operators of similar businesses.
- i) Failure of the Licensee to obtain and maintain appropriate insurance as specified and without gap may be deemed a material breach of this Cooperative Agreement and at the sole discretion of the Town may be cause for termination. If Licensee is unable to maintain insurance coverage at the required levels and Town can obtain acceptable coverage, Town may elect to purchase such policies and Licensee shall immediately reimburse Town for all costs incurred.
- j) The requirements set forth in this Paragraph 12 shall terminate and no longer have any force and effect upon the conveyance of the fee simple title to the Licensed Premises by the Town pursuant to the terms of Paragraph 6 herein.

13. Indemnity & Claims

- a) At all times prior to any conveyance of the fee simple title to the Licensed Premises by the Town pursuant to Paragraph 6 herein, Licensee assumes all risks in the performance of all activities authorized by this Cooperative Agreement and agrees to

defend, indemnify and hold harmless the Town of Saratoga, their officers, employees, agents and assigns (hereinafter, collectively the "Indemnitees") to the extent provided in Section 17 and 18 of the Public Officers Law and the Court of Claims Act from and against any and all claims, suits, losses, damage or injury to persons or property of whatsoever kind and nature, whether direct or indirect, caused or contributed to by Licensee and Licensee's contractors, vendors, materialmen, employees, agents, invitees and guests, and/or arising out of Licensee's conduct and/or Licensee's performance pursuant to this Cooperative Agreement, provided however that Licensee's indemnity shall not extend to any claims, liabilities, losses, damages, expenses, accidents or occurrences arising out of, relating to, or in connection with: (i) the negligence of any Indemnatee; or (ii) the Indemnitees' ordinary upkeep and maintenance of the Licensed Premises and its grounds and facilities outside of the Licensed Premises.

b) For all purposes hereunder, Town shall not be liable for any injury, loss or damage to Licensee, its agents, servants, contractors, vendors, invitees and guests, or to any person happening on, in or about the Licensed Premises or its appurtenances, nor for any injury or damage to the Licensed Premises or to any property belonging to Licensee or to any other person, that may be caused by fire, theft, breakage, vandalism or any other use or misuse or abuse of any portion of the Licensed Premises, including but not limited to any common areas, sidewalks, roads, or water in or adjacent to the Licensed Premises, or that may arise from any other cause whatsoever, unless, and only to the extent of the proportion of which any such injury, loss or damage is determined to be caused by the negligence of the Town.

c) Town shall not be liable to Licensee, its agents, servants, contractors, vendors, invitees and guests, or any other person, for any failure of water supply, gas supply or electric current, nor for any injury or damage to any property of Licensee or any other person or to the Licensed Premises, caused by or resulting from spill or release of gasoline, oil, steam, gas, or electricity, or caused by leakage of any substance from pipes, appliances, sewers or plumbing works, or caused by hurricane, flood, tornado, wind or similar storm or disturbance, or caused by water, rain or snow that may leak or flow from the street, sewers or subsurface areas, or from any part of the Licensed Premises or any body of water within or adjacent to the Licensed Premises, or caused by any public or quasi-public work, unless, and only to the extent of the proportion by which any such injury, loss or damage is determined to be caused by the negligence of the Town.

d) Licensee shall not create or cause to be created any lien, encumbrance or charge upon the Licensed Premises or any part thereof. If any mechanics, laborers or similar statutory or common law lien (including tax liens, provided that the underlying tax is an obligation of Licensee by law or by a provision of this Cooperative Agreement) caused or created by Licensee is filed against the Licensed Premises, or if any public improvement lien created or caused to be created by Licensee is filed against any assets of, or funds appropriated by the Town, then Licensee shall, within forty-five (45) days after receipt of notice of the lien, cause it to be vacated or discharged of record by payment, deposit, bond, court order, or otherwise. However, Licensee shall not be required to discharge any such lien if Licensee shall have: (i) furnished the Town with, at Licensee's option, a cash

deposit, bond, letter of credit (from an institutional lender in a form satisfactory to Town), or other security reasonably satisfactory to Town in an amount sufficient to discharge the lien and all applicable interest, penalties and/or costs; and (ii) brought an appropriate legal proceeding to discharge the lien and is prosecuting such proceeding with diligence and continuity; except that if despite Licensee's efforts to discharge the lien the Town reasonably believes the lien is about to be foreclosed and so notifies Licensee, Licensee shall immediately cause such lien to be discharged of record or the Town may use the security furnished by Licensee in order to discharge the lien.

e) The provisions set forth in this Paragraph 13 shall terminate and no longer have any force and effect upon the conveyance of the fee simple title to the Licensed Premises pursuant to the terms of Paragraph 6 herein.

14. Waiver of Damages

Licensee waives any and all claims for compensation from the Town for any and all loss or damage sustained by reason of any defect, deficiency or impairment of utility service including but not limited to light, electrical current, gas or water supply which may occur from time to time for any cause; and for any loss or damage sustained by Licensee resulting from weather, fire, water, tornado, civil commotion, riots, earth movement or other similar cause beyond the control of Town.

15. Rights Upon Loss from Casualty

a) If a loss or damage from casualty is suffered, Licensee shall give notice of the loss to Town. Town shall consult with Licensee prior to making a determination of whether or in what manner the loss or damage can or should be restored to substantially the same condition as existed prior to such loss from casualty.

b) If the loss from casualty does not totally destroy the Licensed Premises or otherwise substantially interrupt or impede Licensee's performance hereunder, Licensee shall proceed with performance of this Cooperative Agreement.

16. Termination

a) Either Party may terminate this agreement by providing 30 days written notice of its intention to terminate this agreement.

b) In addition to all other rights of termination provided by law and in this Cooperative Agreement, if any one or more of the following events shall occur, this Cooperative Agreement shall terminate:

i) Licensee shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking

an arrangement or its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all its property; or

ii) By order or decree of a court, Licensee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; or

iii) A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against Licensee and shall not be dismissed within forty-five (45) days after the filing thereof; or

iv) The actual or purported letting hereunder of the interest or estate of Licensee under this Cooperative Agreement shall be transferred to, pass to or devolve upon, by operation of law or otherwise, any other person, firm or corporation except upon the express written approval of Town; or

v) By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all the property of Licensee, or any execution or attachment shall be issued against Licensee or any of its property, whereupon possession of the Licensed Premises shall be taken by someone other than Licensee, and any such possession or control shall continue in effect for a period of twenty (20) days; or

vi) Any lien is filed against the Licensed Premises because of any act or omission of Licensee and is not removed or bonded as provided for herein; or

vii) Licensee shall fail duly and punctually to pay the fees or to make any other payment required hereunder when due to Town and such failure shall continue for a period of twenty (20) days after Town shall have given Licensee a written notice and demand therefore; or

viii) Licensee shall fail to keep, perform and observe each and every material promise, covenant and agreement set forth in this Cooperative Agreement on its part to be kept, performed, or observed, within ten (10) days after receipt of notice of default thereunder from the Town (except where fulfillment of its obligation requires activity over a period of time, and Licensee shall have commenced to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and continues diligently such performance without interruption except for causes beyond its control); or

ix) Licensee shall cease to be duly authorized to conduct business in the State of New York.

x) The Town conveys fee simple title to the Licensed Premises pursuant to paragraph 6 above.

Then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Town may by ten (10) days notice terminate this Cooperative Agreement, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

c) No waiver by the Town of any default on the part of Licensee in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by Licensee shall be or be construed to be a waiver by the Town of any other or subsequent default in performance of any of the said terms, covenants and conditions.

d) The rights of termination described above shall be in addition to any other rights of termination provided in this Cooperative Agreement and in addition to any rights and remedies that the Town would have at law or in equity consequent upon any breach of this Cooperative Agreement by Licensee, and the exercise by the Town of any right of termination shall be without prejudice to any other such rights and remedies.

e) Licensee hereby waives its right to trial by jury in any summary proceeding, ejectment or other action that may hereafter be instituted by the Town against Licensee in respect of the Licensed Premises or in any action that may be brought by the Town to recover fees, damages, or other sums payable hereunder. Licensee shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment that may be brought by the Town unless such claims would be deemed waived if not so interposed.

17. Force Majeure

If either the Town or Licensee shall be delayed or prevented from the performance of any act required by this Cooperative Agreement by reason of acts of God, weather, earth movement, lockout or labor trouble, unforeseeable restrictive governmental laws or regulation, or acts of war, riot or other similar causes, without fault and beyond the reasonable control of the party obligated, performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay; provided, however, nothing in this section shall excuse Licensee from the prompt payment of any and all fees payable to the Town pursuant to this Cooperative Agreement.

18. Compliance with all Laws, Rules and Regulations

Licensee shall comply with all federal and state laws, codes and regulations applicable to the conduct of the activities authorized by this Cooperative Agreement, including all other

applicable governmental regulations affecting the Licensed Premises in regard to the sale, use and storage of foodstuffs, beverages, and tobacco. Licensee shall procure at its own expense all permits, licenses or other approvals necessary for the performance of this Cooperative Agreement.

19. Choice of Law/Damages

a) This Cooperative Agreement shall be governed and interpreted in accordance with the laws of the State of New York.

b) Any and all claims against Licensee for damages to Town and/or any actions to enforce the terms and conditions of this Cooperative Agreement shall be enforceable in any appropriate court in Saratoga County, New York, which shall be the sole venue.

20. Integration Clause

This Cooperative Agreement shall not be materially amended, changed or otherwise modified except in writing signed by both parties and approved by the Licensee. Except to the extent that documents are incorporated herein by reference, this Cooperative Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior agreements and understandings of the parties in connection therewith. No covenant, representation or condition not expressed herein shall be effective to interpret, change or restrict the express provisions of this Cooperative Agreement. This Cooperative Agreement shall be interpreted without construing any provision in favor of or against either party by reason of the drafting of the provision.

21. Rights of Third Parties

Nothing contained in this agreement shall create or give to third parties any claim or right of action against the Indemnitees as defined herein, or any interest in real or personal property of the Town or Licensee, beyond that as may legally exist without regard to this Cooperative Agreement.

22. Notices

Any and all notices, elections, demands, requests and responses thereto permitted or required to be given under this Cooperative Agreement (collectively "Notices") shall be in writing, signed by the party giving the same or such party's attorneys and shall be deemed to have been properly given and shall be deemed effective upon receipt when: (i) delivered by express overnight mail delivery service with receipt for delivery; or (ii) deposited in the United States mail, postage prepaid, certified with return receipt requested, to the other party at the address of such other party as set forth herein or at such other address as such party may designate by notice specifically designated as a notice of change of address and given in accordance herewith. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been

received shall constitute receipt. Notices and copies of all notices shall be delivered to the following:

If to Town:

Town Supervisor
Town Hall
12 Spring Street
Schuylerville, NY 12871

and

William Reynolds, Esq.
Town Attorney
PO Box 74
12 Spring Street
Schuylerville, NY 12871

If to Licensee:

Hudson Hoosick Rivers Partnership
c/o Thomas Richardson, Supervisor
City of Mechanicville
112 South 4th Avenue
Mechanicville, NY 12118

23. Agency

Nothing contained herein shall constitute or be construed to create or constitute a legal or *de facto* partnership, joint venture or an agency relationship between the parties.


Signature Pages Follow

SIGNATURE PAGE

IN WITNESS WHEREOF, Town and Licensee have executed this agreement on the day and year indicated.

Licensee: **THE HISTORIC HUDSON-HOOSIC RIVERS PARTNERSHIP**

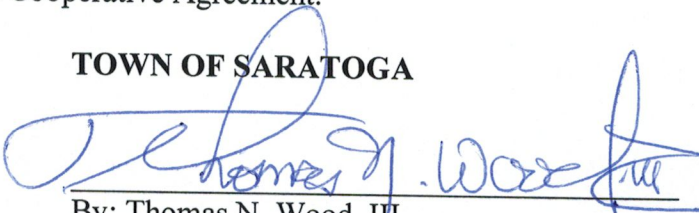
3-14-14
Date

By: 
Thomas Richardson
Chairman

Federal Employer Identification No.: _____

Approved by Town:

Town certifies that copies of this signature page with original signatures will be attached to all other exact copies of the Cooperative Agreement.

TOWN OF SARATOGA
Date: 3/12/14

By: Thomas N. Wood, III
Its: Supervisor

Social Security or Federal ID Number:

14 6002421

ACKNOWLEDGEMENT BY LICENSEE

STATE OF NEW YORK)
COUNTY OF Saratoga) SS:

On this 14th day of March in the year 2014, before me, the undersigned a notary public in and for said state, personally appeared **Thomas Richardson**, personally known, to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is described within the instrument and acknowledged to me that he executed the same in his capacity as Chairman of Hudson Hoosick Rivers Partnership, and that by his signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Ruth L. Drumm
Notary Public

RUTH L. DRUMM
Notary Public, State of New York
Qualified in Saratoga County
No. 01DR60838
My Commission Expires 11-25-20 14

ACKNOWLEDGEMENT BY TOWN

STATE OF NEW YORK)
COUNTY OF Saratoga) SS:

On this 12th day of March in the year 2014, before me, the undersigned a notary public in and for said state, personally appeared **Thomas Wood**, personally known, to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is described within the instrument and acknowledged to me that he executed the same in his capacity as Supervisor of Town of Saratoga, and that by his signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Ruth L. Drumm
Notary Public

RUTH L. DRUMM
Notary Public, State of New York
Qualified in Saratoga County
No. 01DR60838
My Commission Expires 11-25-20 14

Schedule A

Description of the Licensed Premises

ALL THAT CERTAIN TRACT, PIECE OR PARCEL OF LAND, with the building and improvements located thereon, situate, lying and being located on the northerly side of Ferry Street (a.k.a. NYS Rt. 29) in the Village of Schuylerville, Town and County of Saratoga and State of New York, Being more particularly bounded and described as follows:

BEGINNING at the southwest corner of the herein described premises at a capped iron rod set to mark the point of intersection of the northerly bounds of Ferry Street with the easterly bounds of the former Champlain Canal. Said capped iron rod set being additionally located 104.0 feet from the southeast corner of the concrete foundation of the Village of Schuylerville water department building located on the westerly side of the former Champlain Canal. Thence proceeding from said POINT OF BEGINNING along the easterly "Blue Line" of the former Champlain Canal the following four (4) courses and distances:

1. North 03 degrees, 25 minutes and 30 seconds East a distance of 63.85 feet to a capped iron rod set;
2. North 11 degrees, 15 minutes and 20 seconds East a distance of 79.27 feet to "Blue Line" bolt No. 397 found;
3. North 20 degrees, 52 minutes and 00 seconds East a distance of 65.66 feet to a capped iron rod set;
4. North 31 degrees, 25 minutes and 30 seconds East a distance of 264.17 feet to a capped iron rod set on the southerly bounds of the lands of The Village of Schuylerville as conveyed in Liber 947 of Deeds at Page 458;

Thence along said lands of The Village of Schuylerville the following two (2) courses and distances:

1. South 72 degrees, 52 minutes and 50 seconds East a distance of 144.36 feet to a capped iron rod set;
2. South 17 degrees, 24 minutes and 00 seconds West a distance of 462.39 feet to a capped iron rod set on the northerly bounds of the aforementioned Ferry Street;

Said last capped iron rod set being additionally located on a tie course of North 72 degrees, 52 minutes and 50 seconds West a distance of 551.69 feet from a broken concrete monument found marking the southeasterly corner of *other* lands of The Village of Schuylerville as conveyed in Liber 424 of Deeds at Page 514. Thence along the northerly bounds of Ferry Street, North 72 degrees, 52 minutes and 50 seconds West, passing through a broken concrete monument found at 187.84 feet for a total distance of 188.44 feet to the point and place of beginning. Containing 2.01 plus or minus acres of real property.

Bearings stated above are based upon true north as shown on a map entitled "MAP OF A PORTION OF THE CHAMPLAIN CANAL, LANDS BELONGING TO THE STATE MADE PURSUANT TO CHAPTER 199 LAWS OF 1910 AND AMENDATORY LAWS", sheets 46 & 47, dated January 31, 1917 as prepared by William B. Landreth, Deputy State Engineer and Surveyor and as obtained from the office of the Saratoga County Clerk.

BEING the same premises excepted and reserved in a deed from the Town of Saratoga to the Village of Schuylerville, dated March 25, 1975, and recorded in the office of the Saratoga County Clerk on April 3, 1975, in Liber 947 of Deeds at Page 458.

Schedule B

Appropriations

New York State Budget Funds:

Chapter 55, section 1, of the laws of 2006--\$67,700

Chapter 55, section 1, of the laws of 2007--\$350,000

OPRHP Local Assistance Account 2013-2014--\$100,000

Also, in the event a separate Memorandum of Agreement (“MOA”) is entered into between Parks and the Canal Corporation providing for the management by Parks of a separate grant of \$191,000 awarded to Licensee by Canal Corporation, funds associated with this MOA may be managed under this Agreement

APPENDIX A
STANDARD CLAUSES FOR NYS
CONTRACTS VER. 1/2014

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, licensor, 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.