

The Parties to the Agreement, the County of Warren (hereafter, "the County") and (contractor) (hereafter, "Contractor") agree to be bound by the following clauses which are hereby made a part of the Agreement to the extent applicable:

1. EXECUTORY CLAUSE. In accordance with section 362(3) of the County Law, the County shall have no liability under this Agreement to the Contractor or to anyone else beyond funds appropriated and available for this Agreement.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 109 of the General Municipal Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the County and any attempts to assign the contract without the County's written consent are null and void. The Contractor may, however, assign its right to receive payment without the County's prior written consent.

3. CHANGES/AMENDMENTS. The County shall have the right at any time, by written notice, in the form of a Change Order, to the Contractor, to make any changes it deems necessary, including but not limited to, changes in specifications, design, delivery, testing methods, packing, or destination. If any such required changes cause an increase or decrease in the cost of or time required for performance, an equitable adjustment shall be made in the contract price or delivery schedule, or both. Any claim by the Contractor for adjustment under this clause shall be deemed waived unless asserted in writing within ten business (10) days from receipt by the Contractor of the Change Order. Price increases, extensions of time for delivery and change in quantity shall not be binding on the County unless evidenced by a form of Change Order issued and signed by the County.

4. FORCE MAJEURE. No Party shall be held liable for failure to perform its part of this Agreement when such failure is due to fire, flood, or similar disaster; strikes or similar labor disturbances; industrial disturbances, war, riot, insurrection, and/or other unknown causes beyond the control of the parties.

5. CANCELLATION. The County may cancel this Agreement in whole or in part at any time, for cause, by written notice to the Contractor, effective when sent, in the event that the Contractor: (a) fails to comply with any term or condition of this Agreement including, but not limited to, delivery terms; or (b) appoints a receiver, liquidator or trustee in bankruptcy or other similar officer over any or all of its property or assets; or (c) files a voluntary petition in bankruptcy; or (d) has had filed against it an involuntary petition in bankruptcy which remains in effect for thirty (30) days; or (e) voluntarily ceases trading; or (f) merges with or is acquired by a third party; or (g) assigns any of its rights or obligations under the Agreement to a third party without the County's advance written consent. Upon the occasion of any one of the aforesaid, and in addition to any remedies which the County may have in law or in equity, the County may also cancel this Agreement, in whole or in part at any time, by written notice to the Contractor of such cancellation and the Contractor shall thereupon transfer title and deliver to the County such work in progress or completed material as may be requested by the County. The County shall have no liability to

the Contractor beyond payment of any balance owing for Material purchased and/or services provided hereunder and delivered to and accepted by the County prior to the Contractor's receipt of the notice of termination, and for work in progress requested for delivery to the County.

6. PAYMENT TERMS. Contractor shall submit an invoice to the Department set forth on Page One, Section 2, on a monthly basis and the County will pay all invoices within thirty (30) days of receipt of the invoice, or as soon as is practicable. The County shall pay the Contractor in accordance with the County Purchasing Policy. Detailed original invoices not received within forty-five (45) calendar days of the completed work may result in a delay of payment.

7. RENEWAL TERMS. This Agreement may be renewed, between the Parties for additional periods of time following the Expiration Date which were approved by the Warren County Board of Supervisor's resolution (hereafter, "Resolution") which authorized this Agreement, upon the same terms provided by this Agreement, or upon such additional terms as were approved by Resolution, a copy being incorporated by reference herein.

8. SAFETY. The County may unilaterally suspend or terminate work under this Agreement if the Contractor, or their officers, members, partners, employees, agents, subcontractors, or materialmen, are conducting any portion of the work in a manner that threatens the life, health or safety of any person on County property. This reservation of rights by the County in no way obligates the County to inspect the safety practices of the Contractor. If the County exercises its rights pursuant to this part, the Contractor shall be given three (3) days to cure the defect, unless the County, in its sole and absolute discretion, determines that the service cannot be suspended for three (3) days due to the County's legal obligation to continuously provide Contractor's service to the public or the County's immediate need for completion of the work. In such case, Contractor shall immediately cure the defect. If the Contractor fails to cure the identified defect(s), the County shall have the right to immediately terminate this Agreement. If the County terminates this Agreement, any payments for work completed by the Contractor shall be reduced by the costs incurred by the County in re-bidding the work and/or by the increase in cost that results from using a different contractor to complete the work.

9. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is an Agreement 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 Agreement 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, sexual orientation, 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 Agreement. If this is a building service Agreement 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 Fifty Dollars (\$50.00) per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Agreement and forfeiture of all moneys due hereunder for a second subsequent violation. The provisions set forth by Exhibit "D" are part of this Agreement and are incorporated by reference herein.

10. CONFLICTS OF INTEREST. The Contractor represents and warrants that it has no conflict, actual or perceived, that would prevent it from performing its duties and responsibilities under the Agreement and possesses no knowledge or information of any conflict of interest under Article 18 of the General Municipal Law, and the Warren County Code of Ethics, with a copy being available at the County's website <https://www.warrencountyny.gov/boardofethics>. Upon Contractor discovering any conflict of interest which arises after the Effective Date for this Agreement, the Contractor shall notify the County in writing without unreasonable delay.

11. WAGE AND HOURS PROVISIONS. If this is a public work Agreement covered by Article 8 of the Labor Law or a building service Agreement 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 New York 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 County of any County-approved sums due and owing for work done under this Agreement.

12. NYS STATUTORY WORKERS COMPENSATION, EMPLOYER'S LIABILITY AND DISABILITY INSURANCE COVERAGE AND BENEFITS. In accordance with Section 108 of the General Municipal Law this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the entire term of this Agreement for the benefit of such employees as is required to be covered by the provisions of the Workers' Compensation Law.

13. INDEPENDENT STATUS. Nothing in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of copartners between the Parties or that the Contractor's officers, members, partners, employees, staff or agents are

employees of the County in any manner whatsoever. The Contractor and their staff are and shall remain independent and separate for all work performed under this Agreement. The Contractor represents and promises that it has secured at its own expense all persons required to perform the work required by this Agreement. The Contractor's officers, members, partners, employees, representative and agents shall not be considered or deemed County employees or agents, nor shall the County be deemed a joint employer with Contractor, and any and all claims that may arise under the Workers' Compensation Laws of the State of New York on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out work performed under this Agreement including, without limitation, claims of discrimination against the Contractor, its officers, members, partners, employees, or agents, shall in no way be the responsibility of the County. The Contractor shall defend, indemnify and hold harmless the County, its officers, employees and agents from any and all such claims regardless of any determination of any pertinent tribunal, agency, board, commission or court. The Contractor's officers, members, partners, employees and agents shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the County for work performed under this Agreement, including, without limitation, tenure rights, medical and hospital care, personal, sick and vacation leave, Workers' Compensation, employee liability, Unemployment Compensation, disability, and severance pay.

14. COUNTY PROPERTY RIGHTS. All information and materials (hereafter, "Property") received under this Agreement by the Contractor from the County are and shall remain the sole and exclusive Property of the County and the Contractor shall have no right, title, or interest in or to any such Property by virtue of their use or possession of such Property. All intellectual property, created by the Contractor hereunder as a product specifically for the use of the County or as a service provided to the County shall be the sole and exclusive property of the County. Effective upon their creation pursuant to the terms of this Agreement, the Contractor conveys, assigns and transfers to the County the sole and exclusive rights, title and interest in all documents, electronic databases, and custom programs made under this Agreement for the County, whether preliminary, final or otherwise, including all trademarks and copyrights. The 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 the Contractor, its employees, agents, 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 this Agreement. The Contractor grants to the County a perpetual, nonexclusive, royalty-free, unlimited use license to use, execute, reproduce, display, modify and distribute any pre-existing software, tools or techniques delivered by the Contractor under this Agreement. Any written reports, opinions and advice rendered by the Contractor shall become the sole and exclusive property of the County.

15. TITLE AND RISK OF LOSS. Terms of shipping are F.O.B. the County's delivery location unless otherwise noted within the terms of this Agreement or a purchase order submitted under this Agreement.

Regardless of F.O.B. point, Contractor agrees to bear all risk of loss, injury, or destruction of goods and materials ordered herein which may for any reason occur prior to inspection and acceptance by the County. Mere acknowledgement by the County of delivery or receipt of materials shall not be deemed or construed as acceptance of the materials received. No such loss, injury or destruction shall release Contractor from any obligation hereunder.

**16. SET-OFF RIGHTS.** The County shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold for the purposes of set-off any moneys due to the Contractor under this Agreement up to any amounts due and owing to the County with regard to this Agreement, any other Agreement, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

**17. MAINTAINING AND INSPECTION OF RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Agreement (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County and any other person or entity authorized to conduct an examination, as well as any Federal or New York State agency involved in this Agreement, 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 location within the County, for the term specified above for the purposes of inspection, auditing and copying. If this is an Agreement for consulting services, all payments made under the Agreement are subject to audit by the County Treasurer, or their designee. The Contractor further agrees that the County Treasurer and the Treasurer's Department shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transactions or other records relating to Services under the Contract. If such an audit discloses overpayments by the County to the Contractor, within thirty (30) days after the issuance of an official audit report by the Treasurer or their duly designated representatives, the Contractor shall repay the amount of such overpayment by check to the order of the Warren County Treasurer or shall submit a proposed plan of repayment to the Treasurer. If there is no response, or if satisfactory repayments are not made, the County may recoup overpayments from any amounts due or becoming due to the Contractor from the County under the Contract or any other Fund Source and the County may commence an action to obtain a money judgment against the Contractor, which would include reasonable attorney fees, costs and disbursements incurred. The provisions of this paragraph shall survive the expiration or termination of the Agreement for a period of six (6) years after the year in which the Agreement terminated or expired.

**18. PROPRIETARY INFORMATION.** Notwithstanding any provisions to the contrary in the Agreement, Contractor and the County acknowledge and agree that all information, in any format, submitted to the County shall be subject to and treated in accordance with the

NYS Freedom of Information Law ("FOIL," Public Officers Law, Article 6). Pursuant to FOIL, the County is required to make available to the public, upon request, records or portions thereof which it possesses, unless that information is statutorily exempt from disclosure. Therefore, Contractor should submit information to the County in a non-confidential, non-proprietary format. FOIL does provide that the County may deny access to records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." [See Public Officers Law, § 87(2)(d)]. Accordingly, if the Agreement specifically requires submission of information in a format Contractor considers a proprietary and/or confidential trade secret, Contractor shall fully identify and plainly label the information "confidential" or "proprietary" at the time of disclosure. By so marking such information, Contractor represents that the information has actual or potential specific commercial or competitive value to the competitors of Contractor. Without limitation, information will not be considered confidential or proprietary if it is or has been (i) generally known or available from other sources without obligation concerning its confidentiality; (ii) made available by the owner to others without obligation concerning its confidentiality; or (iii) already available to the County without obligation concerning its confidentiality. In the event of a FOIL request, it is the County's policy to consider records as marked above pursuant to the trade secret exemption procedure set forth in 21 New York Codes Rules & Regulations § 501.6 and any other applicable law or regulation. However, the County cannot guarantee the confidentiality of any information submitted. More information on FOIL, and the relevant statutory law and regulations, can be found at the website for the New York State Committee on Open Government (<https://opengovernment.ny.gov/freedom-information-law>) and the FOIL Policy for the County.

**19. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** As a condition to the County's obligation to pay any invoices submitted by Contractor pursuant to this Agreement, Contractor shall provide to the County its Federal employer identification number or Federal social security number, or both such numbers when the Contractor has both such numbers. Where the Contractor does not have such number or numbers, the Contractor must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** 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 Contractor to the County is mandatory. The information will be used for tax administration purposes and for any other purpose authorized by law.

**20. PERMITS.** It is the responsibility of the Contractor to acquire and maintain, at its own cost, any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the work.

21. LICENSING. Professional services performed under this Agreement shall be completed only by persons licensed by the NYS Office of Professions-Education Department as is applicable to the work including, but not limited to: accounting, actuarial, architectural services, engineering, medical services, physical therapy, occupational therapy, therapeutic services, to including counseling, and legal services. The Contractor represents that its officers, members, partners, employees and agents have all necessary governmental licenses to perform the work under this Agreement.

22. CRIMINAL ACTIVITY. If subsequent to the effectiveness of this Agreement, the County comes to know of any allegation previously unknown to it that the Contractor or any of its principals is under indictment for a felony, or has been, within five (5) years prior to submission of the Contractor's proposal to the County, convicted of a felony, under the laws of the United States or of any State or Territory of the United States, then the County may exercise its stop work right under this Agreement. If subsequent to the effectiveness of this Agreement, the County comes to know of the fact, previously unknown to it, that Contractor or any of its principals is under such indictment or has been so convicted, then the County may exercise its right to terminate this Agreement. If the Contractor knowingly withheld information about such an indictment or conviction, the County may declare the Agreement null and void and may seek legal remedies against the Contractor and its principals. The Contractor or its principals may also be subject to penalties for any violation of law which may apply in the particular circumstances. For a Contractor which is an association, partnership, corporation, or other organization, the provisions of this paragraph apply to any such indictment or conviction of the organization itself or any of its officers, partners, or directors or members of any similar governing body, as applicable.

23. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 2878 of the Public Authorities Law, if this Agreement was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on Contractor's behalf.

24. INTERNATIONAL BOYCOTT PROHIBITION. If this Agreement exceeds Five Thousand Dollars (\$5,000), the Contractor agrees, as a material condition of the Agreement, 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 Agreement's execution, such Agreement, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the County within five (5) business days of such conviction, determination or disposition of appeal. (See and

compare Section 220-f of the Labor Law, Section 139-h of the State Finance Law, and 2 NYCRR 105.4).

25. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this Agreement will be in accordance with, but not limited to, the specifications and provisions of State Finance Law Section 165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the County. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the 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 County; otherwise, the bid may not be considered responsive.

26. 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).

27. 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 COUNTY may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

28. IRANIAN ENERGY SECTOR DIVESTMENT. In accordance with Section 2879-c of the Public Authorities Law, by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of [Section 165-a of the State Finance Law](#) (See <https://ogs.ny.gov/iran-divestment-act-2012>).

29. COMPLIANCE WITH NEW YORK STATE DIESEL EMISSION REDUCTION ACT (DERA) OF 2006. Contractor shall comply with and, if applicable to this Agreement, provide proof of compliance with the New York State Diesel Emission Reduction Act of 2006 ("DERA"), Environmental Conservation Law (ECL) Section 19-0323, and the NYS Department of Environmental Conservation (DEC) Law implementing regulations under 6 NYCRR Part 248, Use of Ultra Low Sulfur Diesel Fuel (ULSD) and Best Available Retrofit Technology ("BART"). Compliance includes, but is not limited to, the development of a heavy-duty diesel vehicle (HDDV), maintaining documentation associated with BART evaluations, submitting to and receiving DEC approval of a technology or useful-life waiver, and maintaining records where BART-applicable vehicles are primarily located or garaged.

## Standard Contract Clauses

## EXHIBIT B

### County of Warren, NY

(Version 1.0 eff. 1/2/2025)

DEC regulation under 6 NYCRR Part 248, Use of Ultra Low Sulfur Diesel and Best Available Technology for Heavy Duty Vehicles can be found at: <https://www.dec.ny.gov/regs/2492.html>.

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

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

32. VENUE. Any action or special proceeding commenced between the Parties or by any third-party as against any Party in relation to any matter governed by this Agreement shall be commenced only before the Supreme Court for the County of Warren.

33. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law and 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 County's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the County, in writing, of each and every change of address to which service of process can be made. Service by the County to the last known address of Contractor shall be deemed good and sufficient service. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

34. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily required) without the County's written consent, but must, instead, be heard in a court of competent jurisdiction of the State of New York.

35. NOTICE PROVISION. Any notice, request, demand or other communication required or provided for in this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or mailed in a sealed envelope, postage prepaid, as certified mail and addressed as follows: Notice to the County shall be sent to the Department Head for the Department stated in Section 2 on Page One of this Agreement, with a copy sent to:

Chair, Warren County Board of Supervisors  
C/O Clerk of the Board of Supervisors  
1340 State Route 9  
Lake George, NY 12845

and an additional copy to:

Warren County Attorney  
1340 State Route 9  
Lake George, NY 12845.

Notice to the Contractor shall be sent to the Contractor at the address set forth in Section 4 on Page One of this Agreement, or any updated address provided to the County by the Contractor after the effective date of this Agreement. The notice shall be deemed received the day after it is mailed.

36. ADMISSIBILITY OF REPRODUCTION OF AGREEMENT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, regardless of whether the original of said contract is in existence.

37. ELECTRONIC SIGNATURES BINDING. In accordance with Section 304(2) of the New York State Technology Law, an electronic signature upon Page One of this Agreement may be used and in lieu of a signature affixed by hand and shall have the same validity and effect as the use of a signature affixed by hand.

38. EXECUTION. This Agreement may be executed in separate counterparts which together shall constitute the entire Agreement of the Parties so long as both Parties executed their copy of this Agreement. By executing this Agreement on Page One, the Contractor certifies that all information provided to the County under New York State Finance Law, Section 139-k is complete, true and accurate.

**ARTICLE ONE: INSURANCE COVERAGE REQUIREMENTS**

During the performance of this Agreement, each and every Consultant, Vendor, Contractor and/or Service Provider, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "the Contractor") agrees and promises to comply with the County's insurance coverage requirements as set forth herein.

1. **CONTRACTOR'S OBLIGATIONS.** The Contractor shall procure and maintain during the term of this Agreement and at the sole expense of the Contractor, the policies of insurance coverage with the coverage limits equal to or greater than the amounts enumerated herein. The Contractor bears sole responsibility for any self-insured retention or deductible losses under each of the required policies. Every policy required by the County, including any required endorsements and any umbrella or excess policy coverage, shall be primary insurance. Insurance carried by the County, its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Contractor.

a. The Contractor shall provide the County with a Certificate of Insurance naming the County as Certificate Holder and "**Additional Insured on a Primary and Non-Contributory Basis**" prior to the commencement of any work under this Agreement. The County's failure to object to the contents of the Certificate of Insurance provided by the Contractor or the absence of same shall not be deemed a waiver of any and all rights held by the County under this Agreement.

b. In the event the Contractor utilizes a Subcontractor for any portion of the work under this Agreement, then the Subcontractor shall provide insurance of the same type or types as required herein from the Contractor and to the same extent of coverage as that provided by the Contractor and the Contractor shall provide to the County the Certificates of Insurance for the Subcontractor which shall name the County as Certificate Holder and "**Additional Insured on a primary and non-contributory basis**" prior to the commencement of any work under this Agreement by the Subcontractor.

c. Every required coverage type shall be "occurrence basis" except for Professional Errors and Omissions Coverage, which may be "claims made" coverage. The Contractor may utilize umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage.

d. All insurance shall be provided by insurance carriers licensed and admitted to do business in the State of New York and must be rated "A--:VII" or better by A.M. Best (Current Rate Guide).

e. The County Attorney and/or their designee must approve all insurance certificates submitted by the Contractor prior to the County accepting and executing this Agreement at Page One.

f. The County reserves the right to request certified copies of any policy or endorsement thereto which shall be produced within three (3) business days of a written request delivered by email or as otherwise provided by this Agreement.

g. If the Contractor fails to procure and maintain the required coverage(s) and minimum limits for the Contractor or any Subcontractor, then such failure shall constitute a material breach of a precondition to the County entering into this Agreement, or in the

alternative, a material breach of this Agreement once executed by the County, thereafter authorizing the County to exercise any rights it has in law or equity, including but not limited to any or all of the following:

- 1) immediate termination of the Agreement;
- 2) withholding any/all payment(s) due under this Agreement, or any other Agreement between the County and Contractor (common law set-off); or
- 3) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith.

h. All monies so paid by the County for insurance coverage of the Contractor shall be repaid upon demand, or at the County's option may be offset against any monies due to the Contractor.

2. **COVERAGE REQUIREMENTS GENERALLY.** For every Agreement, the Contractor shall name the "County of Warren" as a Certificate Holder and Additional Insured on a Primary and Non-contributory basis for the following coverage for work performed under this Agreement, as follows:

a. **Commercial General Liability** including Completed Products and Operations and Personal Liability Insurance: One Million Dollars (\$1,000,000.00) per Occurrence with a Two Million Dollars Aggregate (\$2,000,000.00);

b. **Commercial Automobile Insurance:** One Million Dollars (\$1,000,000.00) Combined Single Limit for Owned, Hired and Non-Owned Vehicles;

c. **NYS Statutory Workers Compensation, Employer's Liability and Disability Insurance:** See, Exhibit "B" at Section 12. Failure to secure compensation for the benefit of, and keep insured during the life of this Agreement, employees required in compliance with the provisions of Workers' Compensation Law shall make this Agreement void and of no effect.

d. **Excess Insurance Requirements** shall be based upon the Total Amount of Award for this Agreement, as recorded upon Page One, section 7, as follows:

- 1) Awards of One Dollar (\$1.00) through One Hundred Thousand Dollars (\$100,000): One Million Dollars (\$1,000,000) per Occurrence Aggregate;
- 2) Awards of One Hundred and One Dollars (\$100,001) through Five Hundred Thousand Dollars (\$500,000): Three Million Dollars (\$3,000,000) per Occurrence Aggregate; and
- 3) Awards of Five Hundred and One Dollars (\$500,001) through One Million Dollars (\$1,000,000): Five Million Dollars (\$5,000,000) per Occurrence Aggregate; and
- 4) Awards of One Million and One Dollars (\$1,000,001) or more: Ten Million Dollars (\$10,000,000) per Occurrence Aggregate, or by separate negotiated agreement approved by the Warren County Attorney.

3. **COVERAGE REQUIREMENTS SPECIFIC.** For Agreements involving specific types of work, the Contractor shall also name the "County of Warren" as a Certificate Holder for the following *additional* coverages for Agreements which involve the following specific types of work:

- a. **Professional Services Agreements.** The Contractor providing professional services to the County shall comply

with the coverage requirements set forth above in sections 2a through 2c, and shall also obtain the following additional coverages:

- 1) **Professional Errors and Omissions** coverage of Two Million Dollars (\$2,000,000) per Claim and Aggregate; and
  - 2) **Excess Insurance** coverage of Three Million Dollars (\$3,000,000) per Occurrence and Aggregate.
- b. **Pollution Risk or Exposure, Environmental Hazard, Asbestos, or other special circumstances** in the Agreement:
- 1) **Professional Errors and Omissions:** Two Million Dollars per Claim Aggregate;
  - 2) **Excess Insurance** coverage of Five Million Dollars (\$5,000,000) per Occurrence and Aggregate;
  - 3) **Pollution Liability Insurance including Coverage for Asbestos Abatement** coverage of One Million Dollars (\$1,000,000) per Occurrence.
- c. **Software and Technology, excluding computer application subscriptions and hardware (without regard for the Total Amount of Award):**
- 1) **Cyber /Privacy Liability Insurance:** Two Million Dollars (\$2,000,000) per Occurrence and Aggregate and shall include coverage for Privacy Notification Expenses, Third Party claims including regulatory defense and payment of fines or penalties, and First Party claims including Data Recovery Costs, Cyber Extortion, and data in the care, custody and control of the insured;
  - 2) **Excess Insurance:** Five Million Dollars (\$5,000,000) per Occurrence and Aggregate; and
  - 3) **Technology Errors and Omissions:** Two Million Dollars (\$2,000,000) per Claim and Aggregate

4. **NOTIFICATION OF CHANGES TO INSURANCE COVERAGE.**  
The Contractor shall notify the County as required by Exhibit "B" Section 35, within two (2) business days of the cancellation or any

substantive change of any insurance policy required for this Agreement herein, and failure to do so shall be deemed a material breach of this Agreement which shall subjects the Contractor to liability for damages, indemnification and all other legal remedies available to the County.

#### **ARTICLE TWO: INDEMNIFICATION**

During the performance of this Agreement, each and every Consultant, Vendor, Contractor and/or Service Provider, for itself, it's assignees, and successors in interest (hereinafter collectively referred to as "the Contractor") agrees and promises, to the fullest extent provided by law, to defend, indemnify, and hold harmless the County, its Officers, Employees, and Agents, from and against all claims, damages, losses and expense (including, but not limited to, attorneys' fees, costs and disbursements), which arise out of or result from the performance of the work covered by this Agreement, which are sustained by any person, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of property caused by the tortious act or the negligent act or omission of the Contractor, or its officers, members, partners, employees, agents, subcontractors, or anyone for whom the Contractor is legally liable.

Without limiting the generality of the preceding paragraphs, the following shall be included in the indemnity of the County: any and all such claims, etc., relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute, ordinance, administrative order, executive order, rule or regulation, or decree of any court of competent jurisdiction in connection with, or arising directly or indirectly from, errors and/or negligent acts by the Contractor, or its officers, members, partners, employees, agents, subcontractors, or anyone for whom the Contractor is legally liable. The Contractor's responsibility under this section shall not be limited to the insurance coverage required by this Agreement or the insurance available to the Contractor or any Subcontractor.

During the performance of this Agreement, each and every Consultant, Vendor, Contractor and/or Service Provider, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "the Contractor") agrees and promises to comply with non-discrimination requirements set forth at Section 9 of Exhibit B to this Agreement, as well as the terms and conditions herein and following non-discrimination statutes and authorities:

1. **COMPLIANCE WITH REGULATIONS:** The Contractor will comply with the Acts and the Regulations relative to Non-Discrimination in Federally-assisted programs of the U.S. Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **NON-DISCRIMINATION:** The Contractor, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including the procurement of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Contract and the Acts and the Regulations relative to Non-Discrimination on the grounds of race, color, or national origin.
4. **INFORMATION AND REPORTS:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the County of Warren to be pertinent to ascertain compliance with such Acts, Regulations and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the County of Warren, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the Contractor's noncompliance with the Non-Discrimination provisions of this Contract, the County of Warren will impose such Contract sanctions as it may determine to be appropriate, including, but not limited to: (a) Withholding payments to the Contractor under the Contract until the Contractor complies; and/or (b) Cancelling, terminating, or suspending a Contract, in whole or in part.
6. **INCORPORATION OF PROVISIONS:** The Contractor will include the provisions of paragraphs one through six of this Exhibit "D" in every subcontract, including the procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor shall take all reasonable action with respect to any subcontract or procurement as the County of Warren may direct as a means of enforcing such provisions, including but not limited to sanctions for noncompliance.

Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the County of Warren to enter into any litigation to protect the interests of the County of Warren. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

**PERTINENT NON-DISCRIMINATION AUTHORITIES:**

1. Title VI of the Civil Rights Act of 1964 (42 USC. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.5(a);
2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC ch.61 and 42 USC § 4605(b)(2)(B)), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
3. Federal-Aid Highway Act of 1973, (23 USC § 324 *et seq.*), (prohibits discrimination on the basis of sex);
4. Section 504 of the Rehabilitation Act of 1973, (29 USC § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.7;
5. The Age Discrimination Act of 1975, as amended, (42 USC § 6101 *et seq.*), (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 USC § 4 71, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-259), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC § 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
9. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
10. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
11. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC §1681).