

APPENDIX A

STANDARD CLAUSES FOR SCHUYLER COUNTY CONTRACTS

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FOR FUTURE REFERENCE.

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TABLE OF CONTENTS

<u>Section</u>		<u>Page</u>
1.	Relationship of Parties; Independent Contractor.	2
2.	Non-Assignment Clause.	2
3.	Executory Clause.	2
4.	Performance and Invoicing Obligations.	3
5.	Payment Terms; Prompt Auditing of Vouchers and Late Payment Provisions.	3
6.	Set-Off Rights.	3
7.	Tax Exemption.	3
8.	Cancellation and Termination.	3
9.	Safety.	4
10.	Extensions, Renewals, Modifications.	4
11.	"Lame Duck" Clause.	4
12.	Force Majeure.	4
13.	Insurance and Indemnification, Hold Harmless.	5
14.	Workers' Compensation and Disability Benefits Insurance.	5
15.	Permits and Licensing	5
16.	Records.	5
17.	County Property Rights.	5
18.	Identifying Information and Privacy Notification.	6
19.	Proprietary Information.	6
20.	Compliance with New York State Information Security Breach and Notification Act.	7
21.	Prohibition on Purchase of Tropical Hardwoods.	7
22.	International Boycott Prohibition.	7
23.	Iran Divestment Act Requirements for Certain Contracts.	8
24.	Non-Discrimination Requirements.	8
25.	Compliance with Anti-Sexual Harassment Laws.	8
26.	Wage and Hours Provisions for Certain Contracts.	8
27.	Non-Collusive Bidding Certification for Certain Contracts.	9
28.	Conflicts of Interest Prohibited.	9
29.	Procurement Lobbying.	9
30.	HIPAA Requirements for Certain Contracts.	9
31.	Additional Terms and Conditions. Certain Department of Social Services Contracts.	9
32.	Conflicting Terms.	10
33.	Governing Law.	10
34.	No Arbitration.	10
35.	Giving of Notices.	10
36.	Service of Process.	10
37.	County Attorney's Approval.	10
38.	Admissibility of Reproduction of Agreement.	10
39.	Descriptive Headings for Convenience Only.	10
40.	Entire Agreement; Amendments.	10
41.	No Waiver.	10
42.	Survival of Certain Provisions	11
43.	Electronic Signatures Binding	11
44.	Execution.	11
45.	Accuracy of Contractor Representations.	11

STANDARD CLAUSES FOR SCHUYLER COUNTY CONTRACTS

The parties to the attached contract, license, lease, amendment, renewal or other agreement of any kind (hereinafter, "Agreement" or "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 to the Agreement other than the County of Schuyler ["the County"], whether a contractor, vendor, vendee, licensor, licensee, lessor, lessee or any other party):

1. **RELATIONSHIP OF PARTIES; INDEPENDENT**

CONTRACTOR. Contractor shall have the status of an independent contractor, and in accordance with such status, agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out as, nor claim that any of its officers or employees are officers or employees of the County by reason of this Contract. Nothing in this Contract 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 Contract. The Contractor represents and promises that it has secured at its own expense all persons required to perform the work required by this Contract. The Contractor's officers, members, partners, employees, representatives 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 of work performed under this Contract 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 Contract, including, without limitation, tenure rights, medical and hospital care, personal, sick and vacation leave, Workers' Compensation, employee liability, Unemployment Compensation, disability, and severance pay. Contractor further agrees that it will not make against the County any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

2. **NON-ASSIGNMENT CLAUSE.**

In accordance with § 109 of the General Municipal Law, this Contract may not be assigned by Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so without such consent are null and void.

3. **EXECUTORY CLAUSE.** (A) **All Contracts.**

In accordance with § 362 of the County Law, the County shall have no liability under this Contract to Contractor or to anyone else beyond funds appropriated and available for this Contract. (B) **Certain Installment Purchase Contracts.** Further, in the case of an installment purchase contract, pursuant to General Municipal Law § 109-b, any such installment purchase contract is not a general obligation of the County. This Contract shall be deemed executory only to the extent of monies appropriated and available for the purpose of the Contract, and no liability on account thereof shall be incurred by the political subdivision beyond the amount of such monies. The installment purchase contract is not a general obligation of the County. Neither the full faith and credit nor the taxing power of the County are pledged to the payment of any amount due or to become due under such installment purchase contract. It is understood that neither this Contract nor any representation by any public employee or officer creates any legal or moral obligation to

appropriate or make monies available for the purpose of the Contract.

4. **PERFORMANCE AND INVOICING OBLIGATIONS.** All goods to be delivered and/or services to be performed under this Contract shall be completed during the Term of this Contract, unless otherwise expressly agreed in writing by the parties or extended pursuant to the terms herein. The Contractor shall submit invoices for such goods and/or services within a reasonable time following delivery of the goods or performance of the services, but in no event later than sixty (60) days thereafter, unless a longer period is justified by circumstances and approved by the County. Invoices shall comply with all applicable requirements under New York State law, including but not limited to Article 11-A of the State Finance Law (if applicable to public entities) for prompt payment, and shall include detailed descriptions of the goods delivered and/or services performed, dates of delivery/performance, and supporting documentation as required. Failure to perform during the Term or to invoice within the specified timeframe may constitute a material breach, subject to remedies available under New York law.

5. **PAYMENT TERMS; PROMPT AUDITING OF VOUCHERS AND LATE PAYMENT PROVISIONS.** (A) Contractor shall submit an invoice to the Department for which goods/services are provided on a monthly basis. (B) Consistent with accepted business practices and with sound principles of fiscal management, the County shall audit vouchers and make payments expeditiously and subject to proper and reasonable financial oversight activities designed to ensure that the County receives the quality of goods and services to which it is entitled and to ensure that public funds are spent in a prudent and responsible manner. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by General Municipal Law § 3-a and General Municipal Law Art. 5-a, to the extent required by law.

6. **SET-OFF RIGHTS.** The County shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold for the purposes of set-off any moneys due to Contractor under this Contract up to any amounts due and owing to the

County with regard to this Contract, any other contract with any County department or agency, including any contract for a term commencing prior to the term of this Contract, plus any amounts due and owing to the County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The County shall exercise its set-off rights in accordance with normal County practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the County agency, its representatives, or the County Treasurer.

7. **TAX EXEMPTION.** Contractor acknowledges that: New York State Tax Law exempts state governmental entities such as the County, from payment of sales and use taxes on purchases. Tax exemption numbers and Form ST-119.1, Exempt Organization Exempt Purchase Certificates are not issued to such governmental entities. Letter of evidence as issued by the New York State Department of Taxation and Finance is available upon request.

8. **CANCELLATION AND TERMINATION.** (A) The Contractor and the County may mutually agree, in writing, to cancel or terminate this Contract at any time. (B) The County may terminate this Contract, in whole or in part, by providing written notice to the Contractor not less than thirty (30) days prior to the termination date, in the event of: (i) a material breach by the Contractor, including but not limited to failure to comply with any term or condition of this Contract or delivery terms; or (ii) the Contractor's appointment of a receiver, liquidator, or trustee in bankruptcy or other similar officer over any or all of its property or assets; or (iii) the Contractor's filing of a voluntary petition in bankruptcy; or (iv) the filing against the Contractor of an involuntary petition in bankruptcy which remains in effect for thirty (30) days; or (v) the Contractor voluntarily ceasing trading; or (vi) the Contractor merging with or being acquired by a third party; or (viii) the Contractor assigning any of its rights or obligations under the Contract to a third party without the County's advance written consent. (C) The Contractor may terminate this Contract, in whole or in part, by providing written notice to the County not less than thirty (30) days prior to the termination date, in the event of a material breach or default by the County of any provision of this Contract. (D) Upon any termination under this Section, and in addition to

any remedies which either party may have in law or in equity (including the right to proceed with an action at law or in equity to collect damages arising from a default or violation or to enforce performance of this Contract), the non-terminating party shall transfer title and deliver to the terminating party such work in progress or completed material as may be requested by the terminating party. The terminating party shall have no liability to the non-terminating party beyond payment of any balance owing for material purchased and/or services provided hereunder and delivered to and accepted by the terminating party prior to the non-terminating party's receipt of the notice of termination, and for work in progress requested for delivery to the terminating party.

9. **SAFETY.** The County may unilaterally suspend or terminate work under this Contract 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 Contract. If the County terminates this Contract, 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.

10. **EXTENSIONS, RENEWALS, MODIFICATIONS.** (A) Extensions or renewals to the Contract or any modification including new products, terms, or price changes to the Contract shall be submitted by the Contractor to the County for approval by the County Legislature of the County in order to be effective. No provision of a contract which states that the term of

the contract shall be deemed renewed for a specified additional period shall be effective against the County, absent a subsequent resolution or motion of the County Legislature, specifically authorizing such renewal. (B) Notwithstanding the Contract term's expiration set forth in the body of the Contract, the Contract may, at the County's sole discretion, continue month-to-month for up to three (3) months while the parties are engaged in good faith negotiations to extend the Contract.

11. **"LAME DUCK" CLAUSE.** Should contractor fail to prevail in a future procurement cycle, contractor shall agree to continue to provide all services required in and under the Contract until the new contractor assumes service responsibilities. Under these circumstances contractor will, for a period of several months, serve as a "lame duck" contractor. To ensure continued performance fully consistent with the requirements of the Contract through any such period, the following provisions shall apply: (i) Contractor shall continue all operations and support services at the same level of effort and performance as were in effect prior to the award of the subsequent Contract to a competing organization, including but not limited to compliance with provisions hereof related to qualifications of key personnel; (ii) Contractor shall make no changes in methods of operation which could reasonably be considered to be aimed at cutting contractor service and operating cost to maximize profits during the final stages of the Contract; and (iii) County recognizes that if a competing organization should prevail in a future procurement cycle, contractor may reasonably begin to prepare for transition of service to the new contractor. County shall not unreasonably withhold its approval of contractor's request to begin an orderly transition process, including reasonable plans to relocate staff, scale down certain inventory items, etc., as long as such transition activity does not impair contractor's performance during this period.

12. **FORCE MAJEURE.** If performance of the Contract or any obligation set forth by the Contract is prevented by an event of "Force Majeure," as defined below, the affected party shall provide written notice to the other party and shall be excused from such performance to the extent of and for the duration that performance is prevented. The affected party shall use all reasonable and customary efforts to

remove the cause which prevents performance. "Force Majeure" shall mean any act or event which prevents either Party from performing its obligations under the Contract when such failure is due to fire, flood, or similar natural disaster; strikes or similar labor disturbances; industrial disturbances, war, riot, insurrection, and/or other unknown causes beyond the control of the parties and which could not have been predicted or avoided by the non-performing party. No party shall be held liable for its failure to perform under the Contract when performance was prevented by an event of Force Majeure.

13. INSURANCE AND INDEMNIFICATION, HOLD

HARMLESS. (A) Insurance. (i) (a) Contractor covenants and agrees to maintain in full force and effect during the term of this Contract, and any subsequent term, comprehensive insurance in form, term and content satisfactory to the annexed standards of the County, which are incorporated herein (*Appendix B: Minimum Insurance Standards For Schuyler County Contracts*) and, to prove as evidence of such compliance, insurance certificate(s) which shall be annexed to and made part of this Contract pursuant to said standards. (b) Contractor acknowledges that failure to obtain or maintain such insurance on behalf of the County constitutes a material breach of the Contract and subjects it to liability for damages, indemnification and all other legal remedies available to the county. The County shall, if it deems it necessary, have the right to ask for additional certification at different points throughout the life of the Contract. **(B) Indemnification, Hold Harmless.** Notwithstanding the limits of any policy of insurance provided or maintained by Contractor, Contractor shall defend, indemnify and hold harmless the County of Schuyler and its officers, employees and agents from all claims, actions, suits, liabilities, damages, awards, costs and expenses (including, without limitation, attorneys' fees) of every nature and description arising out of or related to the services provided by Contractor under this Contract and arising out of or caused by any act, omission, breach or negligence of Contractor or its officers, employees, volunteers, or agents. Contractor's duties and obligations pursuant to this paragraph shall survive the termination or expiration of this Contract.

14. WORKERS' COMPENSATION AND DISABILITY BENEFITS INSURANCE. This Contract shall be void

and of no force and effect unless, during the life of this Contract, Contractor shall provide and maintain proof of compliance with any and necessary coverage(s) for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law (WCL), including, but not limited to, compliance with the provisions of WCL § 57 (workers' compensation requirements) and WCL § 220(8) (disability benefits requirements). Such requirements, and any applicable exemptions thereto, are set forth further in the annexed *Appendix B: Minimum Insurance Standards For Schuyler County Contracts*.

15. PERMITS AND LICENSING. (A) It is the responsibility of the Contractor to acquire and maintain, at his/her/its own cost any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the work. **(B)** Professional services performed under this Contract shall be completed only by persons licensed by NYS as applicable to the work performed. Contractor represents that its officers, members, partners, employees and agents have all necessary governmental licenses to perform the work under this Contract.

16. RECORDS. Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Legislature, County Treasurer and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation.

17. COUNTY PROPERTY RIGHTS. All information and materials (hereafter, "Property") received under this Contract 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 Contract, 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 Contract 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 under this Contract. 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 Contract. Any written reports, opinions and advice rendered by the Contractor shall become the sole and exclusive property of the County.

18. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(A) Pursuant to Tax Law § 5, Contractor understands and agrees that, notwithstanding any other provision of law, the County shall, at the time the County contracts to purchase or purchases goods or services or leases real or personal property from any person, require that each such person provide to the County such person's federal social security account number or federal employer identification number, or both such numbers when such person has both such numbers, or, where such person does not have such number or numbers, the reason or reasons why such person does not have such number or numbers. Such numbers or reasons shall be obtained by the County as part of the administration of the taxes administered by the New York State Tax Commissioner for establishing the identification of persons affected by such taxes. **(B)** Contractor further understands and agrees that,

notwithstanding any other provision of law, the County shall, upon request of the commissioner, furnish to the commissioner the following information with respect to each person covered by this Section: (1) business name or the name under which the applicant for a license or licensee will be licensed or is licensed; (2) business address or whatever type of address the County requires the applicant for a license or the licensee to furnish to it; and (3) federal social security account number or federal employer identification number, or both such numbers where such person has both such numbers, or the reason or reasons, furnished by such person, why such person does not have such number or numbers. Notwithstanding Art. 6 of the Public Officers Law or any other provision of law, the report to be furnished by the County to the commissioner pursuant to this Section shall not be open to the public for inspection. **(C)** For the purposes of this Section, "Person" shall mean an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing. However, such term shall not include any public corporation, corporation formed other than for profit or unincorporated not-for-profit entity, except such term shall include an education corporation of the type dealt with in § 221 of the Education Law, an education corporation subject to Art. 101 of the Education Law and a cooperative corporation.

19. PROPRIETARY INFORMATION. Notwithstanding any provisions to the contrary in the Contract, 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 Contract 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 the 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 with 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. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under § 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. 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 Code 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 regulations, can be found at the website for the New York State Committee on Open Government and the FOIL Policy for the County. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation.

20. **COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** In the event Contractor conducts business in New York state, and owns or licenses computerized data which includes private information, Contractor shall comply with the provisions of the New York State Information

Security Breach and Notification Act (General Business Law § 899-aa) as applicable.

21. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** Contractor certifies and warrants that any and all wood products to be used under this Contract award will be in accordance with, but not limited to, the specifications and provisions of § 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subd. (including the County) or public benefit corporation. In addition, when any portion of this Contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Except as might be specifically authorized by State Finance Law § 165, any bid, proposal or other response to a solicitation for bid or proposal which proposes or calls for the use of any tropical hardwood or wood product in performance of the Contract shall be deemed non-responsive.
22. **INTERNATIONAL BOYCOTT PROHIBITION.** If this Contract exceeds Five Thousand Dollars (\$5,000.00), 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. §§ 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 County within five (5) business days of such conviction, determination or disposition of appeal. (See and compare § 220-f of the Labor Law, § 139-h of the State Finance Law, and 2 NYCRR 105.4)

23. IRAN DIVESTMENT ACT REQUIREMENTS FOR CERTAIN CONTRACTS.

In accordance with General Municipal Law § 103-g, if this Contract was awarded, or shall be awarded, where competitive bidding is required by statute, rule, regulation or local law, for work or services performed or to be performed or goods sold or to be sold, Contractor affirms, under penalty of perjury: By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of Subd. 3 of § 165-a of the State Finance Law.

24. 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, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with § 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service Contract as defined in § 230 of the Labor Law, then, in accordance with § 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex

or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. Contractor is subject to fines of \$50.00 per person per day for any violation of § 220-e or § 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation. It is the sole responsibility of Contractor to determine if Contractor is subject to this Contract provision and to ensure compliance with same.

25. COMPLIANCE WITH ANTI-SEXUAL HARASSMENT LAWS.

As a condition of entering into this Contract, Contractor affirms, under penalty of perjury, that Contractor has implemented a written workplace policy addressing sexual harassment prevention and that it provides annual training for all its employees, pursuant to the requirements of Labor Law § 201-g and other applicable statutes, regulations and case law.

26. WAGE AND HOURS PROVISIONS FOR CERTAIN CONTRACTS.

If this is a public work contract covered by Art. 8 of the Labor Law or a building service contract covered by Art. 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Art. 8 of the Labor Law, Contractor understands and agrees that the filing of payrolls in a manner consistent with Subd. 3-a of § 220 of the Labor Law shall be a condition precedent to payment by the County of any State approved sums due and owing for work done upon the project. It is the sole responsibility of Contractor to determine if Contractor is subject to this Contract provision and to ensure compliance with same.

27. NON-COLLUSIVE BIDDING CERTIFICATION FOR CERTAIN CONTRACTS.

In accordance with General Municipal Law § 103-d(1), if this Contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: (a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief: (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

28. CONFLICTS OF INTEREST PROHIBITED. (A) Conflict of Interest; Representation and Warranty:

The Contractor represents and warrants that no official, employee, or agent of the County who has exercised any discretion or authority concerning this Contract, or the negotiation or approval thereof, has any financial interest, direct or indirect, in this Contract, or any financial benefit that would accrue from the execution and performance of this Contract. A financial interest includes, but is not limited to, ownership, employment, offers of same, a gratuity or any other relationship that could compromise the integrity or impartiality of the individual's judgment. The Contractor covenants that it will promptly disclose to the County any knowledge of any financial interest, direct or indirect, that any official, employee, or agent of the County may have in the award or performance of this Contract. **(B) Remedy:** In the event the County determines that any of its officials, employees, or agents who participated in the negotiation, authorization, or approval of this Contract had a previously undisclosed financial interest in the Contract, this Contract shall be considered null, void, and wholly unenforceable at the County's option. The County may also pursue

other remedies available at law or equity, including termination for default.

29. PROCUREMENT LOBBYING.

To the extent this Contract is a "procurement contract" as defined by the State Finance Law §§ 139-j and 139-k, by signing this Contract the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 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 Contract by providing written notification to the Contractor in accordance with the terms of the Contract.

30. HIPAA REQUIREMENTS FOR CERTAIN CONTRACTS.

In the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Contract, a "Business Associate Agreement" (*Appendix C: Business Associate Agreement*), shall be attached to and incorporated by reference in the Contract, in a form and content approved by the County and shall apply in the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Contract by the party signing this Contract as Business Associate, and pursuant to which Business Associate may be considered a "business associate" of the County as such term is defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") including all pertinent regulations issued by the U.S. Dept. of Health and Human Services, as amended.

31. ADDITIONAL TERMS AND CONDITIONS. CERTAIN DEPARTMENT OF SOCIAL SERVICES CONTRACTS. (A)

Appendix DSS-1: "Schuyler County Department of Social Services Special Conditions," New York State Fiscal Reference Manual Required Provisions shall be made a mandatory part of any Contract which involves Schuyler County Department of Social Services Cooperative Contracts and Interagency Contracts and in such case shall be annexed hereto, incorporated by reference herein and made a part hereof. **(B)** *Appendix E: "Department of Social Services Non-disclosure Agreement"* shall be made a mandatory part of any Agreement which involves contracts made on behalf of and for the Schuyler County Department of Social Services and in such case shall be annexed hereto, incorporated by reference herein and made a part hereof.

32. **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.
33. **GOVERNING LAW.** This Contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise. Pursuant to Civil Practice Law and Rules 504(1), the place of trial of all actions related to this Contract by or against the County or any of its officers, boards or departments shall be in such County.
34. **NO ARBITRATION.** Disputes involving this Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily directed), but must, instead, be heard in a court of competent jurisdiction of the State of New York.
35. **GIVING OF NOTICES.** Any notice, request, or other communication required to be given pursuant to the provisions of this Contract shall be in writing and shall be deemed to have been given when delivered in person or five (5) days after being deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, and addressed to the address listed on the face sheet of this Contract. The parties may also provide for fax or email Notice if so set forth in the face sheet of this Contract. The address of either party to this Contract may be changed by notice in writing to the other party served in accordance with this provision.
36. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the NY 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.
37. **COUNTY ATTORNEY'S APPROVAL.** Contractor understands and agrees that the Schuyler County Attorney's office may approve and make or require modifications, other than price and dates, prior to execution by the County to ensure compliance with applicable federal, state and local laws and with all provisions of the County's contract policy manual and insurance standards.
38. **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.
39. **DESCRIPTIVE HEADINGS FOR CONVENIENCE ONLY.** Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Contract.
40. **ENTIRE AGREEMENT; AMENDMENTS.** This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are to be attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. This Contract may be amended or modified only by a written instrument signed by an authorized representative of each of the parties hereto. No oral agreement or conduct shall be deemed to amend or modify this Contract.
41. **NO WAIVER.** No failure by the County to insist upon the strict performance of any term or condition of this Contract or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial performance during the continuance of any such breach, shall constitute a waiver of any such breach or such term or condition. No term or condition of this Contract to be performed or complied with by Contractor, and no breach thereof, shall be waived except by a written

instrument executed by the County. No waiver of any breach shall affect or alter this Contract, but each and every term and condition of this Contract shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

42. SURVIVAL OF CERTAIN PROVISIONS. (A)

Notwithstanding any provision of this Contract to the contrary, the following provisions of this Appendix A, together with any corresponding obligations, rights, and remedies, shall survive the termination, cancellation, or expiration of this Contract for any reason and shall remain in full force and effect according to their terms: *Insurance And Indemnification, Hold Harmless; Records; County Property Rights; Proprietary Information; Compliance with New York State Information Security Breach and Notification Act; Conflicts of Interest Prohibited; Set-Off Rights; Governing Law; No Arbitration; Service of Process; Accuracy Of Contractor Representations; No Waiver; Admissibility of Reproduction of Agreement; Electronic Signatures Binding.* **(B)** In addition, any provision of this Contract which, by its nature or necessary effect, is intended to survive the termination, cancellation, or expiration of this Contract—including, but not limited to, provisions regarding confidentiality, indemnification, audit and inspection rights, ownership of materials, and dispute resolution—shall likewise so survive.

43. ELECTRONIC SIGNATURES BINDING. In accordance with § 304(2) of the New York State Technology Law, an electronic signature upon the signature page(s) of this Contract may be used 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.

44. EXECUTION. This Contract may be executed in separate counterparts which together shall constitute the entire Agreement of the Parties so long as both Parties have executed their copies of this Contract on the signature page(s) affixed hereto.

45. ACCURACY OF CONTRACTOR REPRESENTATIONS.

By executing the signature page(s) affixed hereto, Contractor understands, acknowledges and agrees that this Contract, and all the attachments thereto, will be relied upon by, and filed with, registered and/or recorded in or otherwise become a part of

the records of, the County of Schuyler. Contractor, and any person executing this Contract, as a signatory or otherwise, on contractor's behalf, affirms, under penalty of perjury, to the best of his/her/its knowledge, information and belief, that the representations, agreements and promises made by Contractor in this Contract, and all attachments thereto, including any and all exhibits or appendices, are true, complete and accurate and acknowledges that this document may be filed in an action or proceeding in a court of law.

(Schuyler County Appendix A, Version 2026 01)
This Appendix supersedes prior Appendix A versions.