

# STATE OF CONNECTICUT

DEPARTMENT OF ADMINISTRATIVE SERVICES

CONTRACT AWARD NO.:  
10PSX0090

**Tony Deluca**  
Contract Specialist

PROCUREMENT DIVISION  
165 Capitol Avenue, 5<sup>th</sup> Floor South  
HARTFORD, CT 06106-1659

Contract Award Date:  
1 February 2011  
RFP Due Date:  
16 September 2010

**(860)713-5070**  
Telephone Number

## CONTRACT AWARD

**IMPORTANT: THIS IS NOT A PURCHASE ORDER. DO NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.**

DESCRIPTION: **Electrical Supplies**

<b>FOR: All Using Agencies and Political Subs</b>		<b>TERM OF CONTRACT / DELIVERY DATE REQUIRED:</b> <b>Date of Award Through June 30, 2014</b>	
		<b>AGENCY REQUISITION NUMBER: 242</b>	
<b>IN STATE (NON-SB) CONTRACT VALUE</b>	<b>DAS CERTIFIED SMALL BUSINESS CONTRACT VALUE</b>	<b>OUT OF STATE CONTRACT VALUE</b>	<b>TOTAL CONTRACT AWARD VALUE</b>
\$1,500,000.00 Est. Ann.	-	-	\$1,500,000.00 Est. Ann.

**NOTICE TO CONTRACTORS:** This notice is not an order to ship. Purchase Orders against contracts will be furnished by the using agency or agencies on whose behalf the contract is made.

INVOICE SHALL BE RENDERED DIRECT TO THE ORDERING AGENCY.

**NOTE:** Dollar amounts listed next to each contractor are possible award amounts; however, they do not reflect any expected purchase amounts (actual or implied). They are for CHRO use only.

**NOTICE TO AGENCIES:** A complete explanatory report shall be furnished promptly to the Procurement Manager concerning items delivered and/or services rendered on orders placed against awards listed herein which are found not to comply with the specifications or which are otherwise unsatisfactory from the agency's viewpoint, as well as failure of the contractor to deliver within a reasonable period of time specified. Please issue orders and process invoices promptly.

**CASH DISCOUNTS:** Cash discounts, if any, shall be given SPECIAL ATTENTION, but such cash discount shall not be taken unless payment is made within the discount period.

**PRICE BASIS:** Unless otherwise noted, prices include delivery and transportation charges fully prepaid f.o.b. agency. No extra charge is to be made for packing or packages.

### CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: **Consolidated Electrical Distributors, Inc. dba All-Phase Electric Supply**

Company Address: **15 Commerce Way, South Windsor CT 06074**

Tel. No.: **860.289.7711 X 117**

Fax No.: **860.290.8970**

Contract Value: **\$500,000.00 est. ann.**

Contact Person: **Eric Prantis 860.982.2757 (cell)**

Delivery: **Per Terms**

Contact Person Address: **as above**

Company E-mail Address and/or Company Web Site [epranitis@all-phase.com](mailto:epranitis@all-phase.com) [www.all-phase.com](http://www.all-phase.com)

Remittance Address: **PO Box 307260 Gahanna OH 43230**

Certification Type (SBE, MBE, WBE or None): **None** Terms: **Net 45 Days** Agrees to Supply Political SubDivisions: **Yes**

### CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: **Granite City Electric Supply Company**

Company Address: **211 Ledyard Street, Hartford, CT 06114**

Tel. No.: **860.296.5000**

Fax No.: **860.296.0313**

Contract Value: **\$500,000.00 est. ann.**

Contact Person: **Jerry McCusker 860.922.8874(Cell)**

Contact Person Address: **As Above**

Company E-mail Address and/or Company Web Site [jerrymc@granitecityelectric.com](mailto:jerrymc@granitecityelectric.com) [www.granitecityelectric.com](http://www.granitecityelectric.com)

Remittance Address: **As Above**

Certification Type (SBE, MBE, WBE or None): **None** Terms: **Net 45 Days** Agrees to Supply Political SubDivisions: **Yes**

### CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: **Sonepar Distributors of New England dba Northeast Electrical Distributors**

Company Address: **26 Murphy Road, Hartford CT 06114**

Tel. No.: **866.398.1392**

Fax No.: **866.398.1393**

Contract Value: **\$500,000.00 est. ann.**

Contact Person: **Bob Armstrong 860.982.7278 (Cell)**

Delivery: **Per Terms**

Contact Person Address: **Gary Lavoie-866.398.1392**

Contact Person Address: **As Above**

Company E-mail Address and/or Company Web Site [bob.armstrong@needco.com](mailto:bob.armstrong@needco.com) [gary.lavoie@needco.com](mailto:gary.lavoie@needco.com) [www.needco.com](http://www.needco.com)

Remittance Address: Northeast Electrical Distributors PO Box 415931 Boston MA 02241-5931

Certification Type (SBE, MBE, WBE or None): **None** Terms: **Net 45 Days** Agrees to Supply Political SubDivisions: **Yes**

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**APPROVED**\_\_\_\_\_

**Tony DeLuca**

*Contract Specialist*

(Original Signature on Document in Procurement Files)

# **CONTRACT**

**10PSX0090**

Between

**THE STATE OF CONNECTICUT**

Acting by its

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**AND**

Granite City Electric Supply Company

Awarded Contractor

FOR THE PURCHASE AND SALE OF  
ELECTRICAL SUPPLIES

2/1/2011

Contract Award Date

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This Contract (the “Contract”) is made as of the 31<sup>st</sup> day of January, in the year 2011, by and between, Granite City Electric Supply Company (the “Contractor,”) with a principal place of business at Ledyard Street, Hartford, CT 06114 acting by Larry Palombizio, its Regional Manager and the State of Connecticut, Department of Administrative Services (“DAS”), with a principal place of business at 165 Capitol Ave, Hartford, Connecticut 06106-1659, acting by Carol Wilson, its Director, Procurement Services in accordance with Sections 4a-2 and 4a-51 of the Connecticut General Statutes.

Now therefore, in consideration of these presents, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the Contractor and the State agree as follows:

1. Definitions. Unless otherwise indicated, the following terms shall have the following corresponding definitions:
  - (a) Cancellation: An end to the Contract effected pursuant to a right which the Contract creates due to a breach.
  - (b) Claims: All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
  - (c) Client Agency: All Using State Agencies and Political Subdivisions
  - (d) Contract: The agreement, as of its effective date, between the Proposer and the State for any or all Goods or Services at the Proposal price.
  - (e) Contractor: A person or entity who submits a Proposal and who executes a Contract.
  - (f) Contractor Parties: A Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.
  - (g) Day: All calendar days other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
  - (h) Expiration: An end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract’s term being completed.
  - (i) Force Majeure: Events that materially affect the cost of the Goods or Services or the time schedule within which to Perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
  - (j) Goods: For purposes of the Contract, all things which are movable at the time that the Contract is effective and which include, without limiting this definition, supplies, materials and equipment, as specified in the Request for Proposals and set forth in Exhibit A.
  - (k) Goods or Services: Goods, Services or both, as specified in the Request for Proposals and set forth in Exhibit A.

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- (l) Proposal: A Proposer's submittal in response to a Request for Proposals.
  - (m) Proposer Parties: A Proposer's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Proposer is in privity of oral or written contract and the Proposer intends for such other person or entity to Perform under the Contract in any capacity.
  - (n) Records: All working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
  - (o) Request for Proposals: A State request inviting proposals for Goods or Services. This Contract shall be governed by the statutes, regulations and procedures of the State of Connecticut, Department of Administrative Services.
  - (p) Services: The performance of labor or work, as specified in the Request for Proposals and set forth in Exhibit A.
  - (q) State: The State of Connecticut, including DAS, the Client Agency and any office, department, board, council, commission, institution or other agency of the State.
  - (r) Termination: An end to the Contract effected pursuant to a right which the Contract creates, other than for a breach.
  - (s) Title: all ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Goods or Services.
2. Term of Contract; Contract Extension. The Contract will be in effect from Date of Award through June 30, 2014. The State may extend this Contract in its sole discretion, prior to Termination, Expiration or Cancellation, one or more times for a combined total period not to exceed the complete length of the original term.
  3. Description of Goods or Services. The Contractor shall perform as set forth in Exhibit A. For purposes of this Contract, to perform and the performance in Exhibit A is referred to as "Perform" and the "Performance."
  4. Price Schedule, Payment Terms and Billing, and Price Adjustments.
    - (a) Price Schedule: Price Schedule under this Contract is set forth in Exhibit B.
    - (b) Payment Terms and Billing: Payment shall be made only after the Client Agency receives and accepts the Goods or Services and after it receives a properly completed invoice. Unless otherwise specified in the Contract, payment for all accepted Goods or Services shall be due within forty-five (45) days after acceptance of the Goods or Services, or thirty (30) days if the Contractor is a certified small contractor or minority business enterprise as defined in Conn. Gen. Stat. § 4a-60g. The Contractor shall submit an invoice to the Client Agency for the Performance. The invoice shall include detailed information for Goods or Services, delivered and performed, as applicable, and accepted. Any late payment charges shall be calculated in accordance with the Connecticut General Statutes.
    - (c) If applicable to and during the term of this Contract, the Price Schedule will be adjusted to reflect any increase in the minimum wage rate that may occur, as mandated by state law.

The Price Schedule will not be adjusted until the Contractor provides documentation, in the form of certified payroll or other documentation acceptable to the State, substantiating the increase in minimum wage rate.

- (d) Price Adjustments: Prices for the Goods or Services listed in Exhibit B shall remain unchanged for twelve (12) months following the effective date of the Contract. The Contractor shall have the right to request a price adjustment only during the thirty (30) days immediately preceding the annual anniversary dates of the effective date of the Contract during the term of the Contract. During this thirty (30) day period, the Contractor may submit a request in writing to DAS for a price adjustment that is consistent with and relative to price changes originating with and compelled by manufacturer and/or market trends and which changes are outside of the Contractor's control. The Contractor must fully document its request, attaching to the request, without limitation, such manufacturer and market data, as support the requested adjustment. DAS may, in its sole discretion, approve or disapprove the requested adjustment, in whole or in part. Any approved adjustment shall be final and shall remain unchanged until the next annual anniversary date of the effective date of the Contract.

The Contractor shall submit all requests in accordance with Section #35. Notice. A request made to the Client Agency shall not be valid and the parties shall treat it as if the Contractor had not made the request at all. A request made to the Client Agency shall not be considered timely and shall not toll or extend the running of the thirty (30) days. The right of the Contractor to request a particular price adjustment shall lapse upon the expiration of the applicable thirty (30) days. If the Contractor fails to make a timely request, then the price shall remain unchanged from the previous year and shall continue through the next succeeding twelve (12) months and until the second annual anniversary of the effective date of the Contract. If approved, price adjustments shall become effective ten (10) days after the date of the approval. The Contractor shall honor any purchase orders issued prior to the effective date of the approval at the price in effect at the time of the issuance of the purchase order.

5. Rejected Items; Abandonment.

- (a) The Contractor may deliver, cause to be delivered, or, in any other way, bring or cause to be brought, to any State premises or other destination, Goods, as samples or otherwise, and other supplies, materials, equipment or other tangible personal property. The State may, by written notice and in accordance with the terms and conditions of the Contract, direct the Contractor to remove any or all such Goods ("the "Rejected Goods") and any or all other supplies, materials, equipment or other tangible personal property (collectively, the "Contractor Property") from and out of State premises and any other location which the State manages, leases or controls. The Contractor shall remove the Rejected Goods and the Contractor Property in accordance with the terms and conditions of the written notice. Failure to remove the Rejected Goods or the Contractor Property in accordance with the terms and conditions of the written notice shall mean, for itself and all Contractor Parties and Proposer Parties, that:

- (1) they have voluntarily, intentionally, unconditionally, unequivocally and absolutely abandoned and left unclaimed the Rejected Goods and Contractor Property and relinquished all ownership, title, licenses, rights, possession and interest of, in and to (collectively, "Title") the Rejected Goods and Contractor Property with the specific and express intent of (A) terminating all of their Title to the Rejected Goods and Contractor Property, (B) vesting Title to the Rejected Goods and Contractor Property in the State of Connecticut and (C) not ever reclaiming Title or any future rights of any type in and to the Rejected Goods and Contractor Property;

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- (2) there is no ignorance, inadvertence or unawareness to mitigate against the intent to abandon the Rejected Goods or Contractor Property;
  - (3) they vest authority, without any further act required on their part or the State's part, in the Client Agency and the State to use or dispose of the Rejected Goods and Contractor Property, in the State's sole discretion, as if the Rejected Goods and Contractor Property were the State's own property and in accordance with law, without incurring any liability or obligation to the Contractor or any other party;
  - (4) if the State incurs any costs or expenses in connection with disposing of the Rejected Goods and Contractor Property, including, but not limited to, advertising, moving or storing the Rejected Goods and Contractor Property, auction and other activities, the State shall invoice the Contractor for all such cost and expenses and the Contractor shall reimburse the State no later than thirty (30) days after the date of invoice; and
  - (5) they do remise, release and forever discharge the State and its employees, departments, commissions, boards, bureaus, agencies, instrumentalities or political subdivisions and their respective successors, heirs, executors and assigns (collectively, the "State and Its Agents") of and from all Claims which they and their respective successors or assigns, jointly or severally, ever had, now have or will have against the State and Its Agents arising from the use or disposition of the Rejected Goods and Contractor Property.
- (b) The Contractor shall secure from each Contractor Party or Proposer Party, as appropriate, such document or instrument as necessary or appropriate as will vest in the Contractor plenary authority to bind the Contractor Parties and Proposer Parties to the full extent necessary or appropriate to give full effect to all of the terms and conditions of this section. The Contractor shall provide, no later than fifteen (15) days after receiving a request from the State, such information as the State may require to evidence, in the State's sole determination, compliance with this section.
6. Order and Delivery. The Contract shall bind the Contractor to furnish and deliver the Goods or Services in accordance with Exhibit A and at the prices set forth in Exhibit B. Subject to the sections in this Contract concerning Force Majeure, Termination, Cancellation Expiration and Open Market Purchases, the Contract shall bind the Client Agency to order the Goods or Services from the Contractor, and to pay for the accepted Goods or Services in accordance with Exhibit B.
  7. Contract Amendments. Except for extensions made in accordance with the section in this Contract concerning Term of Contract; Effective Date, no amendment to or modification or other alteration of the Contract shall be valid or binding upon the State unless made in writing, signed by both parties and, if applicable, approved by the Connecticut Attorney General.
  8. Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of DAS. DAS may void any purported assignment in violation of this section and declare the Contractor in breach of Contract. Any Cancellation by DAS for a breach is without prejudice to DAS's or the State's rights or possible Claims.
  9. Termination, Cancellation and Expiration.
    - (a) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may Terminate the Contract whenever DAS makes a written determination that such Termination is in the best interests of the State. DAS shall notify the Contractor in writing of Termination pursuant to this section, which notice shall specify the effective date of

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Termination and the extent to which the Contractor must complete Performance under the Contract prior to such date. The Contractor is not entitled to receive and the State is not obligated to tender to the Contractor any payments or reimbursements for anticipated or lost profits.

- (b) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Cancel the Contract in accordance with the provisions in the Breach section of this Contract.
- (c) DAS shall send the notice of Termination or Cancellation via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to DAS for purposes of correspondence, or by hand delivery. Upon receiving such notice from DAS, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Client Agency all Records. The Records are deemed to be the property of the Client Agency and the Contractor shall deliver them to the Client Agency no later than thirty (30) days after the Termination, Cancellation or Expiration of the Contract or fifteen (15) days after the Contractor receives a written request from DAS for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
- (d) Upon receipt of a written notice of Termination or Cancellation from DAS, the Contractor shall cease operations as directed by DAS in the notice, and take all actions that are necessary or appropriate, or that DAS may reasonably direct, for the protection and preservation of the Goods and any other property. Except for any work which DAS directs the Contractor to Perform in the notice prior to the effective date of Termination or Cancellation, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- (e) To the extent that the Client Agency has issued a purchase order prior to the notice of Termination and the Contractor has begun Performance against that purchase order in good faith, the Client Agency shall, within forty-five (45) days of having received an invoice from the Contractor for such Performance, pay or reimburse the Contractor for its Performance rendered and accepted by the Client Agency in accordance with Exhibit A. In addition, the Client Agency shall also pay or reimburse the Contractor for all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. Upon and as requested by the Client Agency or DAS and after consent of the Contractor's subcontractors, if any, and if their consent is required, the Contractor shall (1) assign to the Client Agency, or any replacement contractor which the Client Agency or DAS designates, all subcontracts, purchase orders and other commitments, (2) deliver to the Client Agency all Records and other information pertaining to its Performance, and (3) remove from State premises, whether leased or owned, all such equipment, waste material and rubbish related to its Performance, all as the Client Agency or DAS may request.
- (f) For breach or violation of any of the provisions in the section concerning Representations and Warranties, DAS may Cancel the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
- (g) Upon Termination, Cancellation or Expiration of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination, Cancellation or Expiration of the Contract. All representations, warranties, agreements and rights of the

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parties under the Contract shall survive such Termination, Cancellation or Expiration to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.

(h) Termination or Cancellation of the Contract pursuant to this section shall not be deemed to be a breach of contract by DAS.

10. Cost Modifications. The parties may agree to a reduction in the cost of the Contract at any time during which the Contract is in effect. Without intending to impose a limitation on the nature of the reduction, the reduction may be to hourly, staffing or unit costs, the total cost of the Contract or the reduction may take such other form as the State deems to be necessary or appropriate.

11. Breach. If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of such breach to the breaching party and afford the breaching party an opportunity to cure the breach within ten (10) days from the date that the breaching party receives such notice. Any other time provided for in the notice shall trump such ten (10) days. Such right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Contract Cancellation date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Cancellation date, no further action shall be required of any party to effect the Cancellation as of the stated date. If the notice does not set forth an effective Contract Cancellation date, then the non-breaching party may Cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written notice. If DAS believes that the Contractor has not performed according to the Contract, the Client Agency may withhold payment in whole or in part pending resolution of the Performance issue, provided that DAS notifies the Contractor in writing prior to the date that the payment would have been due in accordance with Exhibit B.

12. Waiver.

(a) No waiver of any breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity.

(b) A party's failure to insist on strict performance of any provision of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of Performance and shall not be deemed to be a waiver of any subsequent rights, remedies or breach.

13. Open Market Purchases. Except to the extent that the Contractor is performing within a right to cure period, failure of the Contractor to Perform within the time specified in the Contract, or failure to replace rejected or substandard Goods or fulfill unperformed Services when so requested and as the Contract provides or allows, constitutes a breach of the Contract and as a remedy for such breach, such failure shall constitute authority for DAS, if it deems it to be necessary or appropriate in its sole discretion, to Cancel the Contract and/or to purchase on the open market, Goods or Services to replace those which have been rejected, not delivered, or not performed. The Client Agency shall invoice the Contractor for all such purchases to the extent that they exceed the costs and expenses in Exhibit B and the Contractor shall pay the Client Agency's invoice immediately after receiving the invoice. If DAS does not Cancel the Contract, the Client Agency will deduct such open market purchases from the Contract quantities. However, if the Client Agency deems it to be in the best interest of the State, the

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Client Agency may accept and use the Goods or Services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Client Agency.

**14. Purchase Orders.**

- (a) The Contract itself is not an authorization for the Contractor to ship Goods or begin Performance in any way. The Contractor may begin Performance only after it has received a duly issued purchase order against the Contract for Performance.
- (b) The Client Agency shall issue a purchase order against the Contract directly to the Contractor and to no other party.
- (c) All purchase orders shall be in written or electronic form, bear the Contract number (if any) and comply with all other State and Client Agency requirements, particularly the Client Agency's requirements concerning procurement. Purchase orders issued in compliance with such requirements shall be deemed to be duly issued.
- (d) A Contractor making delivery without a duly issued purchase order in accordance with this section does so at the Contractor's own risk.
- (e) The Client Agency may, in its sole discretion, deliver to the Contractor any or all duly issued purchase orders via electronic means only, such that the Client Agency shall not have any additional obligation to deliver to the Contractor a "hard copy" of the purchase order or a copy bearing any hand-written signature or other "original" marking.

**15. Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance of the Contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a Certificate of Insurance to

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DAS, except that the Contractor shall not provide a copy to DAS if the Client Agency is the State Department of Transportation, prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the Certificate of Insurance to DAS. Upon request of the Client Agency, the Contractor shall provide a Certificate of Insurance to the Client Agency.

- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- (f) This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.

16. Forum and Choice of Law. The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

17. Contractor Guaranties. Contractor shall:

- (a) Perform fully under the Contract;
- (b) Guarantee the Goods or Services against defective material or workmanship and to repair any damage or marring occasioned in transit or, at the Client Agency's option, replace them;
- (c) Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the premises, Goods, the Contractor's work or that of Contractor Parties;
- (d) With respect to the provision of Services, pay for all permits, licenses and fees and give all required or appropriate notices;
- (e) Adhere to all Contractual provisions ensuring the confidentiality of Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law; and
- (f) Neither disclaim, exclude nor modify the implied warranties of fitness for a particular purpose or of merchantability.

18. Implied Warranties. DAS does not disclaim, exclude or modify the implied warranty of fitness for a particular purpose or the warranty of merchantability.

19. Goods, Standards and Appurtenances. Any Goods delivered must be standard new Goods, latest model, except as otherwise specifically stated in the Contract. Remanufactured, refurbished or reconditioned equipment may be accepted but only to the extent allowed under the Contract. Where the Contract does not specifically list or describe any part or nominal appurtenances of equipment for the Goods, it shall be understood that the Contractor shall

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deliver such parts and appurtenances as are usually provided with the manufacturer's stock model.

20. Delivery.

- (a) Delivery shall be made as ordered and in accordance with the Contract. Unless otherwise specified in the Contract, delivery shall be to a loading dock or receiving platform. The Contractor or Contractor's shipping designee shall be responsible for removal of Goods from the carrier and placement on the Client Agency loading dock or receiving platform. The receiving personnel of the Client Agency are not required to assist in this process. The decision of DAS as to reasonable compliance with delivery terms shall be final and binding. The burden of proof of proper receipt of the order shall rest with the Contractor.
- (b) In order for the time of delivery to be extended, the Client Agency must first approve a request for extension from the time specified in the Contract, such extension applying only to the particular item or shipment.
- (c) Goods shall be securely and properly packed for shipment, according to accepted standard commercial practice, without extra charge for packing cases, baling or sacks. The containers shall remain the property of the Client Agency unless otherwise stated in the Proposal.
- (d) All risk of loss and damage to the Goods transfers to the Client Agency upon Title vesting in the Client Agency.

21. Goods Inspection. The Client Agency shall determine the manner and prescribe the inspection of all Goods and the tests of all samples submitted to determine whether they comply with all of the specifications in the Contract. If any Goods fail in any way to meet the specifications in the Contract, the Client Agency may, in its sole discretion, either reject it and owe nothing or accept it and pay for it on an adjusted price basis, depending on the degree to which the Goods meet the specifications. Any decision pertaining to any such failure or rejection shall be final and binding.

22. Setoff. In addition to all other remedies that DAS may have, the State, in its sole discretion, may setoff (1) any costs or expenses that the State incurs resulting from the Contractor's unexcused nonperformance under the Contract and under any other agreement or arrangement that the Contractor has with the State and (2) any other amounts that are due or may become due from the State to the Contractor, against amounts otherwise due or that may become due to the Contractor under the Contract, or under any other agreement or arrangement that the Contractor has with the State. The State's right of setoff shall not be deemed to be the State's exclusive remedy for the Contractor's or Contractor Parties' breach of the Contract, all of which shall survive any setoffs by the State.

23. Force Majeure. The State and the Contractor shall not be excused from their obligation to Perform in accordance with the Contract except in the case of Force Majeure events and as otherwise provided for in the Contract. In the case of any such exception, the nonperforming party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance.

24. Advertising. The Contractor shall not refer to sales to the State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without DAS's prior written approval.

25. Americans With Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the term of the Contract. DAS may Cancel the Contract if the Contractor fails to comply with the Act.

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26. Representations and Warranties. The Contractor, and the Proposer, as appropriate, represent and warrant to DAS for itself, Contractor Parties and Proposer Parties, as appropriate, that:

- (a) if they are entities, they are duly and validly existing under the laws of their respective states of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, they have taken all necessary action to authorize the execution, delivery and Performance of the Proposal and the Contract and have the power and authority to execute, deliver and Perform their obligations under the Contract;
- (b) they will comply with all applicable State and Federal laws and municipal ordinances in satisfying their obligations to the State under and pursuant to the Contract, including, but not limited to (1) Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics and (2) Title 4a concerning State purchasing, including, but not limited to 22a-194a concerning the use of polystyrene foam;
- (c) the execution, delivery and Performance of the Contract will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (1) any provision of law; (2) any order of any court or the State; or (3) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- (d) they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- (e) as applicable, they have not, within the three years preceding the Contract, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would Perform under the Contract, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a transaction or contract with any governmental entity. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (f) they are not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
- (g) they have not within the three years preceding the Contract had one or more contracts with any governmental entity Cancelled;
- (h) they have not employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure the Contract and that they have not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of the Contract or any assignments made in accordance with the terms of the Contract;
- (i) to the best of their knowledge, there are no Claims involving the Proposer, Proposer Parties, Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract;
- (j) they shall disclose, to the best of their knowledge, to DAS in writing any Claims involving them that might reasonably be expected to materially adversely affect their businesses,

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operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. For purposes of the Contractor's obligation to disclose any Claims to DAS, the ten (10) Days in the section of this Contract concerning Disclosure of Contractor Parties Litigation shall run consecutively with the ten (10) Days provided for in this representation and warranty;

- (k) their participation in the Request for Proposals process is not a conflict of interest or a breach of ethics under the provisions of Title 1, Chapter 10 of the Connecticut General Statutes concerning the State's Code of Ethics;
- (l) the Proposal was not made in connection or concert with any other person, entity or Proposer, including any affiliate (as defined in the Tangible Personal Property section of this Contract) of the Proposer, submitting a Proposal for the same Goods or Services, and is in all respects fair and without collusion or fraud;
- (m) they are able to Perform under the Contract using their own resources or the resources of a party who is not a Proposer;
- (n) the Contractor shall obtain in a written contract all of the representations and warranties in this section from any Contractor Parties and to require that provision to be included in any contracts and purchase orders with Contractor Parties;
- (o) they have paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- (p) they have a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- (q) they owe no unemployment compensation contributions;
- (r) they are not delinquent in the payment of any taxes owed, or, that they have filed a sales tax security bond, and they have, if and as applicable, filed for motor carrier road tax stickers and have paid all outstanding road taxes;
- (s) all of their vehicles have current registrations and, unless such vehicles are no longer in service, they shall not allow any such registrations to lapse;
- (t) each Contractor Party has vested in the Contractor plenary authority to bind the Contractor Parties and Proposer Parties to the full extent necessary or appropriate to ensure full compliance with and Performance in accordance with all of the terms and conditions of the Contract and that all appropriate parties shall also provide to DAS, no later than fifteen (15) days after receiving a request from DAS, such information as DAS may require to evidence, in DAS's sole determination, compliance with this section;
- (u) except to the extent modified or abrogated in the Contract, all Title shall pass to the Client Agency upon complete installation, testing and acceptance of the Goods or Services and payment by the Client Agency;
- (v) if either party Terminates or Cancels the Contract, for any reason, they shall relinquish to the Client Agency all Title to the Goods delivered, accepted and paid for (except to the extent any invoiced amount is disputed) by the Client Agency;
- (w) with regard to third party products provided with the Goods, they shall transfer all licenses which they are permitted to transfer in accordance with the applicable third party license;

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- (x) they shall not copyright, register, distribute or claim any rights in or to the Goods after the effective date of the Contract without DAS's prior written consent;
- (y) they either own or have the authority to use all Title of and to the Goods, and that such Title is not the subject of any encumbrances, liens or claims of ownership by any third party;
- (z) the Goods do not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (aa) the Client Agency's use of any Goods shall not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (bb) if they procure any Goods, they shall sub-license such Goods and that the Client Agency shall be afforded the full benefits of any manufacturer or subcontractor licenses for the use of the Goods; and
- (cc) they shall assign or otherwise transfer to the Client Agency, or afford the Client Agency the full benefits of any manufacturer's warranty for the Goods, to the extent that such warranties are assignable or otherwise transferable to the Client Agency.

27. Representations and Warranties Concerning Motor Vehicles. If in the course of Performance or in any other way related to the Contract the Contractor at any time uses or operates "motor vehicles," as that term is defined by Conn. Gen. Stat. §14-1(53) (including, but not limited to such services as snow plowing, sanding, hauling or delivery of materials, freight or merchandise, or the transportation of passengers), the Contractor, and the Proposer, as appropriate, represent and warrant for itself, the Contractor Parties and Proposer Parties, as appropriate, that:

- (a) It is the owner of record or lessee of record of each such motor vehicle used in the Performance of the Contract, and each such motor vehicle is duly registered with the Connecticut Department of Motor Vehicles ("ConnDMV") in accordance with the provisions of Chapter 246 of the Connecticut General Statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV, for any reason or cause. If such motor vehicle is not registered with ConnDMV, then it shall be duly registered with another state or commonwealth in accordance with such other state's or commonwealth's applicable statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by such other state or commonwealth for any reason or cause.
- (b) Each such motor vehicle shall be fully insured in accordance with the provisions of Sections 14-12b, 14-112 and 38a-371 of the Connecticut General Statutes, as amended, in the amounts required by the said sections or in such higher amounts as have been specified by ConnDMV as a condition for the award of the Contract, or in accordance with all substantially similar provisions imposed by the law of the jurisdiction where the motor vehicle is registered.
- (c) Each Contractor Party who uses or operates a motor vehicle at any time in the Performance of the Contract shall have and maintain a motor vehicle operator's license or commercial driver's license of the appropriate class for the motor vehicle being used or operated. Each such license shall bear the endorsement or endorsements required by the provisions of Section 14-36a of the Connecticut General Statutes, as amended, to operate such motor vehicle, or required by substantially similar provisions imposed by the law of another jurisdiction in which the operator is licensed to operate such motor vehicle. The license shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV or such other jurisdiction for any reason or cause.

- (d) Each motor vehicle shall be in full compliance with all of the terms and conditions of all provisions of the Connecticut General Statutes and regulations, or those of the jurisdiction where the motor vehicle is registered, pertaining to the mechanical condition, equipment, marking and operation of motor vehicles of such type, class and weight, including, but not limited to, requirements for motor vehicles having a gross vehicle weight rating of 18,000 pounds or more or motor vehicles otherwise described by the provisions of Conn. Gen. Stat. § 14-163c(a) and all applicable provisions of the Federal Motor Carrier Safety Regulations, as set forth in Title 49, Parts 382 to 399, inclusive, of the Code of Federal Regulations.
28. Disclosure of Contractor Parties Litigation. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
29. Entirety of Contract. The Contract is the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the parties, whether written or oral. The Contract has been entered into after full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in the Contract.
30. Exhibits. All exhibits referred to in and attached to this Contract are incorporated in this Contract by such reference and shall be deemed to be a part of it as if they had been fully set forth in it.
31. Executive Orders. The Contract is subject to the provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms, Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17<sup>th</sup>, 2006, concerning procurement of cleaning products and services, Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.
32. Non-discrimination. References in this section to "contract" shall mean this Contract and references to "contractor" shall mean the Contractor.
- (a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:
- (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation,

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- mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved;
- (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
  - (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f;
  - (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.
- (b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
  - (c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons:
    - (1) Who are active in the daily affairs of the enterprise,
    - (2) who have the power to direct the management and policies of the enterprise and
    - (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
  - (d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
  - (e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
  - (f) The contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and

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such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

(2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56;

(4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(i) For the purposes of this entire Non-Discrimination section, "contract" includes any extension or modification of the contract, "contractor" includes any successors or assigns of the contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "contract" does not include a contract where each contractor is

1. a political subdivision of the state, including, but not limited to, a municipality,

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2. a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120,
  3. any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267,
  4. the federal government,
  5. a foreign government, or
  6. an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).
33. Tangible Personal Property. The Contractor on its behalf and on behalf of its Affiliates, as defined below, shall comply with the provisions of Conn. Gen. Stat. §12-411b, as follows:
- (a) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;
  - (b) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;
  - (c) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
  - (d) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
  - (e) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.

For purposes of this section of the Contract, the word "Affiliate" means any person, as defined in section 12-1 of the general statutes, that controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word "voting security" means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. "Voting security" includes a general partnership interest.

The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State's contracting authority, such information as the State may require to ensure, in the State's sole determination, compliance with the provisions of the Act.



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36. Insurance. Before commencing Performance, the Contractor shall obtain and maintain at its own cost and expense for the duration of the Contract, the following insurance as described in (a) through (h) below. Contractor shall assume any and all deductibles in the described insurance policies. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

(a) Reserved

(b) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the occurrence limit.

(c) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.

(d) Workers' Compensation and Employers Liability: Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

(e) Reserved

(f) Umbrella Liability: Excess/umbrella liability insurance may be included to meet minimum requirements. Umbrella coverage must indicate the existing underlying insurance coverage.

(g) Claims Made: Not acceptable with the exception of Professional Liability when specified.

(h) Reserved

37. Headings. The headings given to the sections in the Contract are inserted only for convenience and are in no way to be construed as part of the Contract or as a limitation of the scope of the particular section to which the heading refers.

38. Number and Gender. Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.

39. Parties. To the extent that any Contractor Party or Proposer Party is to participate or Perform in any way, directly or indirectly in connection with the Proposal or the Contract, any reference in the Request for Proposals and the Contract to "Contractor" or "Proposer" shall also be deemed to include "Contractor Parties" or "Proposer Parties," respectively, as if such reference had originally specifically included "Contractor Parties" or "Proposer Parties," since it is the parties' intent for the terms "Contractor Parties" and "Proposer Parties" to be vested with the same respective rights and obligations as the terms "Contractor" and "Proposer."

40. Contractor Changes. The Contractor shall notify DAS in writing no later than ten (10) Days from the effective date of any change in:

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- a) its certificate of incorporation or other organizational document;
- b) more than a controlling interest in the ownership of the Contractor; or
- c) the individual(s) in charge of the Performance.

This change shall not relieve the Contractor of any responsibility for the accuracy and completeness of the Performance. DAS, after receiving written notice by the Contractor of any such change, may require such agreements, releases and other instruments evidencing, to DAS's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that provision has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to DAS in accordance with the terms of DAS's written request. DAS may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to Perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to Perform under the Contract until Performance is fully completed.

- 41. **Further Assurances.** The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provisions of this Contract and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Contract, in order to give full effect to the Contract and to carry out the intent of the Contract.
- 42. **Audit and Inspection of Records.** The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents. Requests for any audit or inspection shall be in writing, at least ten (10) Days prior to the requested date. All audits and inspections shall be at the State's expense. The State may request an audit or inspection at any time during the Contract term and for three (3) years from Termination, Cancellation or Expiration of the Contract. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- 43. **Background Checks.** The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Public Safety Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.
- 44. **Continued Performance.** The Contractor and Contractor Parties shall continue to Perform their obligations under the Contract while any dispute concerning the Contract is being resolved.
- 45. **Working and Labor Synergies.** The Contractor shall be responsible for maintaining a tranquil working relationship between the Contractor work force, the Contractor Parties and their work force, State employees, and any other contractors present at the work site. The Contractor shall quickly resolve all labor disputes which result from the Contractor's or Contractor Parties' presence at the work site, or other action under their control. Labor disputes shall not be deemed to be sufficient cause to allow the Contractor to make any claim for additional compensation for cost, expenses or any other loss or damage, nor shall those

disputes be deemed to be sufficient reason to relieve the Contractor from any of its obligations under the Contract.

46. Contractor Responsibility.

- (a) The Contractor shall be responsible for the entire Performance under the Contract regardless of whether the Contractor itself performs. The Contractor shall be the sole point of contact concerning the management of the Contract, including Performance and payment issues. The Contractor is solely and completely responsible for adherence by the Contractor Parties to all applicable provisions of the Contract.
- (b) The Contractor shall exercise all reasonable care to avoid damage to the State's property or to property being made ready for the State's use, and to all property adjacent to any work site. The Contractor shall promptly report any damage, regardless of cause, to the State.

47. Severability. If any term or provision of the Contract or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the Contract or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the Contract shall be valid and enforced to the fullest extent possible by law.

48. Confidential Information. The State will afford due regard to the Proposer's and Contractor's request for the protection of proprietary or confidential information which the State receives. However, all materials associated with the Proposal and the Contract are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the Proposer or Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the vendor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Proposer or Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, especially including the Proposal, the Records and the specifications, conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Proposer or Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as CONFIDENTIAL, DAS will endeavor to keep said information confidential to the extent permitted by law. DAS, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Contractor shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall DAS or the State have any liability for the disclosure of any documents or information in its possession which the State or DAS believes are required to be disclosed pursuant to the FOIA or other requirements of law.

49. Interpretation. The Contract contains numerous references to statutes and regulations. For purposes of interpretation, conflict resolution and otherwise, the content of those statutes and regulations shall govern over the content of the reference in the Contract to those statutes and regulations.

50. Cross-Default.

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- (a) If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under the Contract, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to perform under any or all other agreements or arrangements (“Other Agreements”) that the Contractor or Contractor Parties have with DAS. Accordingly, DAS may then exercise at its sole option any and all of its rights or remedies provided for in the Contract or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS, as if the Contractor or Contractor Parties had suffered a breach, default or failure to perform under the Other Agreements.
  - (b) If the Contractor or Contractor Parties breach, default or in any way fail to perform satisfactorily under any or all Other Agreements with DAS or the State, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to Perform under the Contract. Accordingly, the State may then exercise at its sole option any and all of its rights or remedies provided for in the Other Agreements or the Contract, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS or the State, as if the Contractor or Contractor Parties had suffered a breach, default or failure to Perform under the Contract.
51. Disclosure of Records. The Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this section, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.
52. Summary of State Ethics Laws. Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.
53. Sovereign Immunity. The parties acknowledge and agree that nothing in the Request for Proposals or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
54. Time of the Essence. Time is of the essence with respect to all provisions of this Agreement that specify a time for performance; provided, however, that this provision shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
55. Reserved
56. Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign

Contribution and Solicitation Ban. With regard to a State contract as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this submission in response to the State's solicitation expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising prospective state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See Exhibit C, SEEC Form 11.

57. Health Care Portability and Accountability Act of 1996 (“HIPAA”).

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (hereinafter “Department”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions.
  - (1) “Breach” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1)).’
  - (2) “Business Associate” shall mean the Contractor.
  - (3) “Covered Entity” shall mean the Department of the State of Connecticut named on page 1 of this Contract.
  - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
  - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).

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- (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
- (7) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
- (8) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- (9) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.
- (10) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- (11) “More stringent” shall have the same meaning as the term “more stringent” in 45 C.F.R. § 160.202.
- (12) “This Section of the Contract” refers to the HIPAA Provisions stated herein, in their entirety.
- (13) “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.
- (14) “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
- (15) “Unsecured protected health information” shall have the same meaning as the term as defined in § 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).

(h) Obligations and Activities of Business Associates.

- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.

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- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees that at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not directly or indirectly receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly

authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act,(42 U.S.C. § 17935(d)(2)) and in any accompanying regulations

(16) Obligations in the Event of a Breach

- (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. § 17932(b) and the provisions of this section of the contract.
- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. § 17932(g)) . A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
  - 1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
  - 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
  - 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
  - 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
  - 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and contact information for said official.
- (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.

- (E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(i) Permitted Uses and Disclosure by Business Associate.

- (1) **General Use and Disclosure Provisions** Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- (2) **Specific Use and Disclosure Provisions.**
  - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
  - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
  - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
  - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
  - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
  - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination.

- (A) Except as provided in (1)(2) above, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

- (3) **Survival.** The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) **Effect on Contract.** Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) **Construction.** This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

58. Encryption of Data.

- (a) Contractor and Contractor Parties, at its own expense, shall keep and maintain in an encrypted state any and all electronically stored data now or hereafter in its possession or control located on non-state owned or managed devices that the State, in accordance with its existing state policies classifies as confidential or restricted. The method of encryption shall be compliant with the State of Connecticut Enterprise Wide Technical Architecture (EWTA). This shall be a continuing obligation for compliance with the EWTA standard as it may be amended or supplemented from time to time.
- (b) In the event of a breach of security or loss of State data, the Contractor and Contractor Parties shall notify the Client Agency which owns the data, DAS, the Connecticut Department of Information Technology and the Connecticut Office of the Attorney General as soon as practical but no later than 24 hours after the discovery or reason to believe such breach or loss that such data has been compromised through breach or loss.

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IN WITNESS WHEREOF, the parties have executed this Contract by their duly authorized representatives with full knowledge of and agreement with its terms and conditions.

Granite City Electric Supply Company

By: \_\_\_\_\_

Larry Palombizio

Print or Type Name

Title: Regional Manager

Date: 1/31/2011 \_\_\_\_\_

STATE OF CONNECTICUT  
Department of Administrative Services

By: \_\_\_\_\_

Carol Wilson

Print or Type Name

Title: Director, Procurement Services

Date: 1/26/11

## **EXHIBIT A**

### DESCRIPTION OF GOODS AND SERVICES

This purpose of this contract is to provide electrical supplies for the State, political subdivisions and qualified non-profits.

#### **General Requirements:**

- Contractor must maintain the capability to provide the required products, designated customer service representatives (csr), outside sales and technical representatives, all of which have comprehensive knowledge of the proposed products.
- Maintain the levels of manufacturers' and product as indicated in "Exhibit B"
- Provide technical information/knowledge regarding those products
- Maintain the capability to recommend, consult and demonstrate the products and supplies and provide examples.
- Maintain 24/7 capability for emergencies – person to person answering service (no voice mail or answering machines) for off hours/days.
- Maintain named (dedicated) customer service representative(s) to manage all account requirements and update as required.

#### **Product Requirements:**

- All items shall be new, specified for the U.S. market, unused, of the latest model or design and of recent manufacture.
- Items shall be delivered in factory packaging with any additional packaging required to ensure delivery free of damage. All manuals and warranty information shall be included.
- Materials shall conform to all of the latest codes, regulations, and meet all requirements for the uses for which the item(s) is (are) intended.
- Refurbished products and product substitutions are not allowed without prior approval by the Agency.
- Energy Star Compliance: where appropriate for all products Contractor must inform Agencies of options, identifying which products meet the required standards and provide technical assistance in product selection.

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- All products are F.O.B. delivered including packing per destination with no additional charges.

**Ordering Procedure/Order Fulfillment/Delivery Requirements:**

Emergency orders for stocked items will be given priority status and delivered the same or next business day.

Standard products shall be delivered within 24-48 hours. Non-standard or custom product orders shall be delivered within ten (10) business days; if delivery is not possible for reasons acceptable to the agency, the Contractor shall provide a mutually acceptable, firm delivery date.

Agencies may return unopened or unused items within thirty (30) days of receipt for full credit. There will be no re-stocking/cancellation fees.

**Pricing:**

Pricing is based on percentage discounts from the manufacturers COLUMN # 3 prices as found in the Trade Service TRA-SER® SX Price Directory Software, according to updates, for all but specialized, custom or non-standard items. The discounts offered in the proposal will remain firm throughout the term of the contract.

The State reserves the right to renegotiate the discounts if it is in the best interests of the State.

Contractor shall maintain a subscription to the Trade Service TRA-SER® SX Price Directory Software updates, throughout the life of the contract. For more information on Trade Service TRA-SER® SX Price Directory Software, contact:

Trade Service Company  
Karen Hart, Sales Manager, Government and Education Markets  
800-854-1527 ex. 1533 or 352-683-6115  
Email: [karen\\_hart@tradeservice.com](mailto:karen_hart@tradeservice.com)

Trade Service TRA-SER® SX Price Directory Software shall be used to establish the manufacturer's published prices. The Trade Service TRA-SER® SX Price Directory Software aggregates and regularly updates pricing information for the products incorporated into this contract.

All costs associated with the procurement and use of Trade Service software is the responsibility of the Contractor.

The Contractor shall have the Trade Service program operational prior to the contract start date.

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RFP Contract - Exhibit A - Description of Goods and Services-NEW 1/09

In the event that Trade Service issues improved software package prior to or during the term of this contract, the Contractor will begin using the upgraded version within thirty (30) days of its release.

On the date of any order, the pricing for said order will be correlated to the most current update of the TRA-SER® SX Price Directory Software, with the exception of those items listed in Exhibit B – Market Basket which will be fixed for six (6) months and three (3) months for Wire.

The State reserves the right to acquire manufacturers' pricing information from sources other than the TRA-SER® SX Price Directory Software to be used as the basis for establishing contract pricing.

The Contractor shall provide price verification to contract users upon request. Price verification will include manufacturer name, catalog number/and or UPC number, Manufacturers List Price and contract price.

The offered discount structure shall remain firm for the term of the contract. Price changes from the manufacturer as listed in the TRA-SER® SX Price Directory Software will be passed on. There will be no allowance for price increases on orders already placed with the contractor.

### **Reporting and Records Requirements:**

The Contractor will be required to provide to DAS various reports which include but are not limited to:

- Spend - variations of
- Users - all
- Items purchased – all
- Level III for credit card purchases
- Any other reports which DAS deems necessary to determine the success of the contract and which are within the realm of the Contractor's data capture/reporting capabilities as determined by DAS.

### **Mandatory Extension to State Entities:**

Contractor is required to offer and extend this contract (including pricing, terms and conditions) to Political Sub-Divisions of the State (Towns and Municipalities), Schools, and Not-For-Profit Organizations.

When a Political Sub-Division, School, and/or Not-For-Profit Organization utilize this contract all references to the "State" are hereby replaced with the Name of the Using Sub-Division, School, or the name of the Not-For-Profit Organization.

**P-Card (Purchasing Credit Card):**

The State of Connecticut uses a MasterCard purchasing card for order placement and payment in many instances. Contractors who accept credit cards should anticipate that some or all orders issued as a result of this request for proposal may be paid by using the purchasing card. The Contractor shall be aware that he/she is responsible for the credit card user handling fee associated with credit card purchases. Contractors should only charge to the State's MasterCard when the goods are delivered (physical receipt of goods, at store), or are shipped.

Questions regarding the State of Connecticut MasterCard Program should be directed to Ms. Kerry DiMatteo, Procurement Card Program Administrator at (860) 713-5072.

**E-Commerce (Electronic Commerce):**

The State of Connecticut utilizes an internet-based E-Procurement ordering system (PeopleSoft/Oracle), known as Core-CT. Contractor is required to accept purchase orders from the State of Connecticut through this system.

Contractors shall provide the State of Connecticut with functional data files that include specific formats for product and pricing information. These functional data files will then be loaded into a catalog on this system for ordering purposes.

Detailed information on E-Commerce/Data File Requirements and Core-CT is available at

[http://www.das.state.ct.us/Purchase/New\\_purchHome/busopp\\_template.asp?F\\_ID=23](http://www.das.state.ct.us/Purchase/New_purchHome/busopp_template.asp?F_ID=23)

**Initial Notification**

- Contractors will be notified that a functional data file is needed.
- Contractors shall provide functional data files within ten (10) business days from the date of notification.
- Failure to provide functional data files within the time allotted will constitute a breach of contract.

**Data Updates**

- During the term of the contract, data file updates (price changes, product changes) must be provided in the format specified.
- Frequency of data file updates is outlined in the pricing specifications section of this document. Additional information on data updates is available in the supplier kit found at:  
[http://www.das.state.ct.us/Purchase/New\\_purchHome/busopp\\_template.asp?F\\_ID=23](http://www.das.state.ct.us/Purchase/New_purchHome/busopp_template.asp?F_ID=23)
- Existing pricing/product information will remain in effect until a functional data update is received and a contract supplement is issued.

RFP 10PSX0090 Exhibit B Price Schedule

Contractor Name:		DISTRIBUTOR: GRANITE CITY ELECTRIC RFP #10PSX0090				
Item	Manufacturer	Manufacturer Catalog Number	Manufacturer Product Description	UOM	Market Basket Price	
<p align="center">Market Basket Pricing for "Electrical Items" will be fixed for six (6) months and three (3) months for "Wire" initially and for each subsequent interval. Increases shall be allowed at the end of each periodic interval according to the pricing in "Trade Services" column three at that time.</p>						
<b>Market Basket Electrical Items</b>						
1	OSRAM	LED50RETROFIT/7	SYL LED50RETROFIT/750/T5M/D6 (78628	ea	\$300.00	
2	BUSS	FNQ-8	BUSS FNQ-8 500V MIDGET TD FUSE	ea	\$6.88	
3	LITHONIA	TAF	LITH TAF 2 32 MVOLT 1/4 GEB10IS HEA	ea	\$ 115.00	
4	OSRAM	LU250/ECO	SYL LU250/ECO (67578) CLR E18MOG HP	ea	\$ 6.32	
5	ENERGIZER	EN91	EV-REDY EN91 1.5V AA INDUST BATTERY	ea	\$ 0.27	
6	OSRAM	FO32/741/ECO	SYL FO32/741/ECO (21999) RS OCTRON	ea	\$ 0.89	
7	BUSS	HEB-AW-RLC-A	BUSS HEB-AW-RLC-A FUSEHOLDER	ea	\$ 28.20	
8	ENERGIZER	EN92	EV-REDY EN92 AAA INDUST BATTERY	ea	\$ 0.30	
9	ADVANCE	ICN2P32N35I	ADV ICN2P32N35I 2-F32T8 UNIV BALLAST	ea	\$ 9.00	
10	OSRAM	LU200/ECO	SYL LU200/ECO (67576) CLR E18MOG HP	ea	\$ 6.42	
11	OSRAM	LED40POST/757/T	SYL LED40POST/757/T5S/D11/1G RET KT	ea	\$ 300.00	
12	ENERGIZER	EN22	EV-REDY EN22 9V INDUST BATTERY	ea	\$ 1.05	
13	ADVANCE	ICN4P32N35I	ADV ICN4P32N35I 4-F32T8 UNIV BALLAST	ea	\$ 9.25	
14	FEDSIGNL	50GC-120BG	FEDSIG 50GC-120BG 4-IN SQ SPEAKER	ea	\$ 165.00	
15	FEDSIGNL	50GC-120BG	FEDSIG 50GC-120BG 4-IN SQ SPEAKER	ea	\$ 165.00	
16	ENERGIZER	EN95	EV-REDY EN95 1/5V D INDUST BATTERY	ea	\$ 0.58	
17	BUSS	HEB-AW-RYC	BUSS HEB-AW-RYC FUSEHOLDER	ea	\$ 39.50	
18	OSRAM	FB032/741/6/ECO	SYL FB032/741/6/ECO (22052) BNT OCT	ea	\$ 4.25	
19	GELTG		GEL M2AR15P1A2GMN21 150W MHPS W/PE	ea	\$ 193.33	
20	INTERMAT	K4521	INT-MAT K4521 120V PHOTOCNTROL	ea	\$ 8.00	
21	GEEDC	CR309C123	GEA CR309C123 3P 208 REV STR 1 NEMA	ea	\$ 300.00	
22	COOPERLT		FAIL FAS-X-232-UNV80/96-LEOCH8-CPH	ea	\$ 289.00	
23	ADVANCE	ICN3P32N35I	ADV ICN3P32N35I 3-F32T8 UNIV BALLAST	ea	\$ 9.25	
24	ENERGIZER	EN93	EV-REDY EN93 1/5V C INDUST BATTERY	ea	\$ 0.48	
25	GELTG	MDRL40S1A21RMS3	GEL MDRL40S1A21RMS31 400W LUM	ea	\$ 228.00	
26	KIDDE	i12040	KID i12040 21006378 120V AC WITH 9V	ea	\$ 8.16	
27	OSRAM	LU400/ECO	SYL LU400/ECO (67533) CLR E18MOG HP	ea	\$ 6.00	
28	OSRAM	LU100/MULT-KIT	SYL LU100/MULT-KIT (47316) MAG HID	ea	\$ 25.00	
29	PASS	1595-I	P&S 1595-I GRCE RECEP 15A 125V 20A	ea	\$ 6.00	
30	GENERAC	5523	GENERAC 5523 17KW GT990 (3500 RPM)	ea	\$ 3,122.00	

RFP 10PSX0090 Exhibit B Price Schedule

Contractor Name:		DISTRIBUTOR: GRANITE CITY ELECTRIC RFP #10PSX0090				
Item	Manufacturer	Manufacturer Catalog Number	Manufacturer Product Description	UOM	Market Basket Price	
<p align="center"><b>Market Basket Pricing for "Electrical Items" will be fixed for six (6) months and three (3) months for "Wire" initially and for each subsequent interval. Increases shall be allowed at the end of each periodic interval according to the pricing in "Trade Services" column three at that time.</b></p>						
31	EMEL	ELXN400R	EMEL ELXN400R SELF POWERED LED EXIT	ea	\$	11.34
32	LITHONIA	2PM3NGB2U3169LD	LITH 2PM3NGB2U3169LDMVOLTGEB10IS FL	ea	\$	48.00
33	EMEL	EC2	EMEL EC2 6V 120/277V W/2 ADJ HEADS	ea	\$	30.00
34	OSRAM	F34CW/SS/ECO	SYL F34CW/SS/ECO	ea	\$	0.88
35	GENCBLE	04457.60.05	GENE 04457.60.05 16/3SJT 50FT METAL	ea	\$	22.00
37	3M	33+SUPER-3/4X66	3M 33+SUPER-3/4X66FT VINYL TAPE	ea	\$	3.00
38	BUSS	KTK-10	BUSS KTK-10 600V MIDGET FUSE	ea	\$	5.00
39	OSRAM	QHE-2X59T8/UNV-	SYL QHE-2X59T8/UNV-ISN-SC (49859) 2	ea	\$	14.00
40	PASS	1595-I	P&S 1595-I GFCI RECEP 15A 125V 20A	ea	\$	7.34
41	EMEL	ELXN400R2SQ	EMEL ELXN400R2SQ EXIT SIGN W/LAMP H	ea	\$	34.02
42	EMTCOND	034E	EMT 034E 3/4IN EMT CONDUIT 10FT	ea	\$	0.31
43	OSRAM	FO17/741/ECO	SYL FO17/741/ECO (21770) OCT FLUOR	ea	\$	1.11
44	PROCURE	STOCK	AG2 SD DRUM SWITCH	ea	\$	78.00
45	HOFFMAN	E6PB	HOFF E6PB 6H OT PB ENCL	ea	\$	63.00
46	OSRAM	FO32/735/ECO	SYL FO32/735/ECO (21998) RS OCTRON	ea	\$	0.89
47	BUSS	HEB-AW	BUSS HEB-AW TRON INLINE FUSEHOLDER	ea	\$	14.25
48	OSRAM	FP54/841/HO/ECO	SYL FP54/841/HO/ECO (20906) FLOUR L	ea	\$	2.22
49	PASS	2091I	P&S 2095-I GFCI RECEP 20A 125V 20A	ea	\$	7.00
50	OSRAM	M1000/MULTI-I/D	SYL M1000/MULTI-I/D (47207) MLT VOL	ea	\$	75.00
<b>Market Basket Wire</b>						
1	THHNCU	WIC. THHN 600MC	WIC. THHN 600MCM STR BLK MR	ft	\$	9.04
2	THHNCU	WIC. THHN 3/0 S	WIC. THHN 3/0 STR BLK MR	ft	\$	2.37
3	THHNCU	WIC. THHN 2 STR	WIC. THHN 2 STR BLK MR	ft	\$	0.98
4	THHNCU	WIC. THHN 1/0 S	WIC. THHN 1/0 STR BLK MR	ft	\$	1.50
5	THHNCU	WIC. THHN 1 STR	WIC. THHN 1 STR BLK MR	ft	\$	1.24
6	ROMEX	WIC ROMEX 14/2	WIC ROMEX 14/2 W/GRD 250C	ft	\$	0.19
7	ROMEX	WIC ROMEX 12/2	WIC ROMEX 12/2 W/GRD 250C	ft	\$	0.30

<b>Contractor Name:</b>	<b>GRANITE CITY ELECTRIC</b>
<b>Manufacturer / Product Line</b>	<b>Percentage Off Trade Services Column #3</b>
General Discount for all lines not listed below	55.00
3M, Connectors	45.00
3M, Electrical Tapes	45.00
Advance, Ballasts	55.00
All Pro Lighting products	30.00
Arlington products	75.00
B-Line Strut	85.00
Briscon Products	60.00
Burndy Products	65.00
Bussman Product	40.00
Caddy Products	45.00
Crouse Hinds Products	40.00
Cutler Hammer	20.00
Dual Lite	40.00
Edwards-Electrical Supplies	40.00
Encore Wire	70.00
Enertron, Lighting Products	50.00
Firex Maple Chase	45.00
Flourolite, Lenses	45.00
Fluke, Tools, Test Equipment	40.00
GE Lamps all Others	85.00
GE Lamps Fluorescent	85.00
GE Lamps HID	85.00
Gould Fuses	65.00
GreenLee-Factory Products	40.00
GreenLee-Tools (P.I.E)	40.00
Halco Ballasts	85.00
Halco Lamps	85.00
Halo products	85.00
Halo, Lighting	60.00
Hubbel Ground Fault Devices	65.00
Hubbell Lighting Exterior	65.00
Hubbell, Wall Plates	65.00
Hubbell, Wiring Devices	65.00
Ideal –Tape Insulating Material Heat Shrink tubing	50.00
Ideal Terminals	50.00
Ideal Testers & Instruments	50.00
Ideal Tools	50.00
Ideal, Connectors	50.00
IlSCO, Lugs	65.00
Intermatic –Photo Controls	60.00
Intermatic Products	60.00

## RFP 10PSX0090 Exhibit B Price Schedule

<b>Contractor Name:</b>	<b>GRANITE CITY ELECTRIC</b>
<b>Manufacturer / Product Line</b>	<b>Percentage Off Trade Services Column #3</b>
Jasco Batteries	70.00
Klein, Tools	70.00
Lenox Products	65.00
Lenox-Tools	80.00
Leviton Decora Devices	70.00
Leviton Products	70.00
Leviton Twist lock Devices	70.00
Leviton Wall Plates	70.00
Leviton-SW Recepts, plugs Conn-Comm	70.00
Lithonia, Fluorescent Fixtures	70.00
Lithonia	70.00
Little Fuse (Fuses)	55.00
Lumark Lighting	45.00
Lutron Ballasts	60.00
Lutron, Dimmers	60.00
Lutron, Dimmers	60.00
Nutone Fans	40.00
Nutone Products	40.00
Panduit-Raceways, Wireways, Strut,Cable Tray	40.00
Paralux Lighting	30.00
Pass & Seymore Products	70.00
Phillips Lamps all Others	70.00
Phillips Lamps Fluorescent	85.00
Phillips Lamps HID	85.00
Raco Products	70.00
Rayovac Batteries-Akaline	70.00
Rayovac Batteries-general purpose	70.00
Selecta Products (Batteries)	60.00
Sensorswitch-Acuity	40.00
Siemens, Panels and Breakers	40.00
Simkar, Lighting	45.00
Square D Circuit Breakers	85.00
Square D Nema Contactors & Starters	50.00
Square D Panelboards	85.00
Square D Safety Switches	65.00
Sure Lites Lighting	40.00
Sylvania, Ballasts	40.00
Sylvania, Lamps	40.00
T&B Products	60.00
Thomas & Betts Steel City Boxes	85.00
Thomas & Betts Wire	60.00
Universal Ballasts	80.00

RFP 10PSX0090 Exhibit B Price Schedule

<b>Contractor Name:</b>	<b>GRANITE CITY ELECTRIC</b>
<b>Manufacturer / Product Line</b>	<b>Percentage Off Trade Services Column #3</b>
Wiremold Products	65.00

## **EXHIBIT C**

### SEEC FORM 11

#### **NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN**

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

#### **Campaign Contribution and Solicitation Ban**

*No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;*

*In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.*

#### **Duty to Inform**

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

#### **Penalties for Violations**

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

#### **Contract Consequences**

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A 07-1 may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to “State Contractor Contribution Ban.”

#### **Definitions:**

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political

## Contract # 10PSX0090

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subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv)

**Contract # 10PSX0090**

RFP Contract – Exhibit C – SEEC Form 11 - NEW 1/09

serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

# STATE OF CONNECTICUT

## DEPARTMENT OF ADMINISTRATIVE SERVICES

PROCUREMENT DIVISION  
165 Capitol Avenue, 5<sup>th</sup> Floor South

HARTFORD, CT 06106-1659

**Tony DeLuca**  
Contract Specialist

**(860)713-5070**  
Telephone Number

CONTRACT AWARD NO.:

10PSX0090

Contract Award Date:

1 February 2011

RFP Due Date:

16 September 2010

### PARTIAL CONTRACT AWARD

**IMPORTANT: THIS IS NOT A PURCHASE ORDER. DO NOT PRODUCE OR SHIP WITHOUT AN AGENCY PURCHASE ORDER.**

DESCRIPTION: **Electrical Supplies**

**FOR: All Using Agencies and Political Subs**

**TERM OF CONTRACT / DELIVERY DATE REQUIRED:**

**Date of Award Through June 30, 2014**

**AGENCY REQUISITION NUMBER: 242**

IN STATE (NON-SB) CONTRACT VALUE	DAS CERTIFIED SMALL BUSINESS CONTRACT VALUE	OUT OF STATE CONTRACT VALUE	TOTAL CONTRACT AWARD VALUE
\$1,500,000.00 Est. Ann.	-	-	\$1,500,000.00 Est. Ann.

**NOTICE TO CONTRACTORS:** This notice is not an order to ship. Purchase Orders against contracts will be furnished by the using agency or agencies on whose behalf the contract is made.

INVOICE SHALL BE RENDERED DIRECT TO THE ORDERING AGENCY.

**NOTE:** Dollar amounts listed next to each contractor are possible award amounts; however, they do not reflect any expected purchase amounts (actual or implied). They are for CHRO use only.

**NOTICE TO AGENCIES:** A complete explanatory report shall be furnished promptly to the Procurement Manager concerning items delivered and/or services rendered on orders placed against awards listed herein which are found not to comply with the specifications or which are otherwise unsatisfactory from the agency's viewpoint, as well as failure of the contractor to deliver within a reasonable period of time specified. Please issue orders and process invoices promptly.

**CASH DISCOUNTS:** Cash discounts, if any, shall be given SPECIAL ATTENTION, but such cash discount shall not be taken unless payment is made within the discount period.

**PRICE BASIS:** Unless otherwise noted, prices include delivery and transportation charges fully prepaid f.o.b. agency. No extra charge is to be made for packing or packages.

#### CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: **Consolidated Electrical Distributors, Inc. dba All-Phase Electric Supply**

Company Address: **15 Commerce Way, South Windsor CT 06074**

Tel. No.: **860.289.7711 X 117**

Fax No.: **860.2908970**

Contract Value: **\$500,000.00 est. ann.**

Contact Person: **Eric Pranita 860.982.2757 (cell)**

Delivery: **Per Terms**

Contact Person Address: **as above**

Company E-mail Address and/or Company Web Site [epranita@all-phase.com](mailto:epranita@all-phase.com) [www.all-phase.com](http://www.all-phase.com)

Remittance Address: **PO Box 307260 Gahanna OH 43230**

Certification Type (SBE, MBE, WBE or None): **None**

Terms: **Net 45 Days**

Agrees to Supply Political SubDivisions: **Yes**

#### CONTRACTOR INFORMATION:

REFER TO THE CONTRACT ON THE DAS PROCUREMENT WEB PAGE FOR THE MOST CURRENT CONTRACTOR INFORMATION. (<http://das.ct.gov/mp1.aspx?page=8>)

Company Name: **Sonepar Distributors of New England dba Northeast Electrical Distributors**

Company Address: **26 Murphy Road, Hartford CT 06114**

Tel. No.: **866.398.1392**

Fax No.: **866.398.1393**

Contract Value: **\$500,000.00 est. ann.**

Contact Person: **Bob Armstrong 860.982.7278 (Cell)**

Delivery: **Per Terms**

**Gary Lavoie-866.398.1392**

Contact Person Address: **As Above**

Company E-mail Address and/or Company Web Site [bob.armstrong@needo.com](mailto:bob.armstrong@needo.com) [gary.lavoie@needco.com](mailto:gary.lavoie@needco.com) [www.needco.com](http://www.needco.com)

Remittance Address: **Northeast Electrical Distributors PO Box 415931 Boston MA 02241-5931**

Certification Type (SBE, MBE, WBE or None): **None**

Terms: **Net 45 Days**

Agrees to Supply Political SubDivisions: **Yes**

APPROVED \_\_\_\_\_

**Tony DeLuca**

Contract Specialist

(Original Signature on Document in Procurement Files)

# **CONTRACT**

**10PSX0090**

Between

**THE STATE OF CONNECTICUT**

Acting by its

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**AND**

Consolidated Electrical Distributors, Inc.

dba

All Phase Electric Supply Company

Awarded Contractor

FOR THE PURCHASE AND SALE OF  
ELECTRICAL SUPPLIES

2/1/2011

Contract Award Date

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1. Definitions
  2. Term of Contract; Contract Extension
  3. Description of Goods and Services
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This Contract (the “Contract”) is made as of the 29th day of December, in the year 2010, by and between, Consolidated Electrical Distributors, Inc. dba All Phase Electric Supply Company (the “Contractor,”) with a principal place of business at 31356 Via Colinas, CA 91362, acting by Jack Scavone, its Agent and the State of Connecticut, Department of Administrative Services (“DAS”), with a principal place of business at 165 Capitol Ave, Hartford, Connecticut 06106-1659, acting by Carol Wilson, its Director, Procurement Services, in accordance with Sections 4a-2 and 4a-51 of the Connecticut General Statutes.

Now therefore, in consideration of these presents, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the Contractor and the State agree as follows:

1. Definitions. Unless otherwise indicated, the following terms shall have the following corresponding definitions:
  - (a) Cancellation: An end to the Contract effected pursuant to a right which the Contract creates due to a breach.
  - (b) Claims: All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
  - (c) Client Agency: All Using State Agencies and Political Subdivisions
  - (d) Contract: The agreement, as of its effective date, between the Proposer and the State for any or all Goods or Services at the Proposal price.
  - (e) Contractor: A person or entity who submits a Proposal and who executes a Contract.
  - (f) Contractor Parties: A Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.
  - (g) Day: All calendar days other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
  - (h) Expiration: An end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract’s term being completed.
  - (i) Force Majeure: Events that materially affect the cost of the Goods or Services or the time schedule within which to Perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
  - (j) Goods: For purposes of the Contract, all things which are movable at the time that the Contract is effective and which include, without limiting this definition, supplies, materials and equipment, as specified in the Request for Proposals and set forth in Exhibit A.
  - (k) Goods or Services: Goods, Services or both, as specified in the Request for Proposals and set forth in Exhibit A.

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- (l) Proposal: A Proposer's submittal in response to a Request for Proposals.
  - (m) Proposer Parties: A Proposer's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Proposer is in privity of oral or written contract and the Proposer intends for such other person or entity to Perform under the Contract in any capacity.
  - (n) Records: All working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
  - (o) Request for Proposals: A State request inviting proposals for Goods or Services. This Contract shall be governed by the statutes, regulations and procedures of the State of Connecticut, Department of Administrative Services.
  - (p) Services: The performance of labor or work, as specified in the Request for Proposals and set forth in Exhibit A.
  - (q) State: The State of Connecticut, including DAS, the Client Agency and any office, department, board, council, commission, institution or other agency of the State.
  - (r) Termination: An end to the Contract effected pursuant to a right which the Contract creates, other than for a breach.
  - (s) Title: all ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Goods or Services.
2. Term of Contract; Contract Extension. The Contract will be in effect from Date of Award through June 30, 2014. The State may extend this Contract in its sole discretion, prior to Termination, Expiration or Cancellation, one or more times for a combined total period not to exceed the complete length of the original term.
  3. Description of Goods or Services. The Contractor shall perform as set forth in Exhibit A. For purposes of this Contract, to perform and the performance in Exhibit A is referred to as "Perform" and the "Performance."
  4. Price Schedule, Payment Terms and Billing, and Price Adjustments.
    - (a) Price Schedule: Price Schedule under this Contract is set forth in Exhibit B.
    - (b) Payment Terms and Billing: Payment shall be made only after the Client Agency receives and accepts the Goods or Services and after it receives a properly completed invoice. Unless otherwise specified in the Contract, payment for all accepted Goods or Services shall be due within forty-five (45) days after acceptance of the Goods or Services, or thirty (30) days if the Contractor is a certified small contractor or minority business enterprise as defined in Conn. Gen. Stat. § 4a-60g. The Contractor shall submit an invoice to the Client Agency for the Performance. The invoice shall include detailed information for Goods or Services, delivered and performed, as applicable, and accepted. Any late payment charges shall be calculated in accordance with the Connecticut General Statutes.
    - (c) If applicable to and during the term of this Contract, the Price Schedule will be adjusted to reflect any increase in the minimum wage rate that may occur, as mandated by state law.

The Price Schedule will not be adjusted until the Contractor provides documentation, in the form of certified payroll or other documentation acceptable to the State, substantiating the increase in minimum wage rate.

- (d) Price Adjustments: Prices for the Goods or Services listed in Exhibit B shall remain unchanged for twelve (12) months following the effective date of the Contract. The Contractor shall have the right to request a price adjustment only during the thirty (30) days immediately preceding the annual anniversary dates of the effective date of the Contract during the term of the Contract. During this thirty (30) day period, the Contractor may submit a request in writing to DAS for a price adjustment that is consistent with and relative to price changes originating with and compelled by manufacturer and/or market trends and which changes are outside of the Contractor's control. The Contractor must fully document its request, attaching to the request, without limitation, such manufacturer and market data, as support the requested adjustment. DAS may, in its sole discretion, approve or disapprove the requested adjustment, in whole or in part. Any approved adjustment shall be final and shall remain unchanged until the next annual anniversary date of the effective date of the Contract.

The Contractor shall submit all requests in accordance with Section #35. Notice. A request made to the Client Agency shall not be valid and the parties shall treat it as if the Contractor had not made the request at all. A request made to the Client Agency shall not be considered timely and shall not toll or extend the running of the thirty (30) days. The right of the Contractor to request a particular price adjustment shall lapse upon the expiration of the applicable thirty (30) days. If the Contractor fails to make a timely request, then the price shall remain unchanged from the previous year and shall continue through the next succeeding twelve (12) months and until the second annual anniversary of the effective date of the Contract. If approved, price adjustments shall become effective ten (10) days after the date of the approval. The Contractor shall honor any purchase orders issued prior to the effective date of the approval at the price in effect at the time of the issuance of the purchase order.

5. Rejected Items; Abandonment.

- (a) The Contractor may deliver, cause to be delivered, or, in any other way, bring or cause to be brought, to any State premises or other destination, Goods, as samples or otherwise, and other supplies, materials, equipment or other tangible personal property. The State may, by written notice and in accordance with the terms and conditions of the Contract, direct the Contractor to remove any or all such Goods ("the "Rejected Goods") and any or all other supplies, materials, equipment or other tangible personal property (collectively, the "Contractor Property") from and out of State premises and any other location which the State manages, leases or controls. The Contractor shall remove the Rejected Goods and the Contractor Property in accordance with the terms and conditions of the written notice. Failure to remove the Rejected Goods or the Contractor Property in accordance with the terms and conditions of the written notice shall mean, for itself and all Contractor Parties and Proposer Parties, that:

- (1) they have voluntarily, intentionally, unconditionally, unequivocally and absolutely abandoned and left unclaimed the Rejected Goods and Contractor Property and relinquished all ownership, title, licenses, rights, possession and interest of, in and to (collectively, "Title") the Rejected Goods and Contractor Property with the specific and express intent of (A) terminating all of their Title to the Rejected Goods and Contractor Property, (B) vesting Title to the Rejected Goods and Contractor Property in the State of Connecticut and (C) not ever reclaiming Title or any future rights of any type in and to the Rejected Goods and Contractor Property;

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- (2) there is no ignorance, inadvertence or unawareness to mitigate against the intent to abandon the Rejected Goods or Contractor Property;
  - (3) they vest authority, without any further act required on their part or the State's part, in the Client Agency and the State to use or dispose of the Rejected Goods and Contractor Property, in the State's sole discretion, as if the Rejected Goods and Contractor Property were the State's own property and in accordance with law, without incurring any liability or obligation to the Contractor or any other party;
  - (4) if the State incurs any costs or expenses in connection with disposing of the Rejected Goods and Contractor Property, including, but not limited to, advertising, moving or storing the Rejected Goods and Contractor Property, auction and other activities, the State shall invoice the Contractor for all such cost and expenses and the Contractor shall reimburse the State no later than thirty (30) days after the date of invoice; and
  - (5) they do remise, release and forever discharge the State and its employees, departments, commissions, boards, bureaus, agencies, instrumentalities or political subdivisions and their respective successors, heirs, executors and assigns (collectively, the "State and Its Agents") of and from all Claims which they and their respective successors or assigns, jointly or severally, ever had, now have or will have against the State and Its Agents arising from the use or disposition of the Rejected Goods and Contractor Property.
- (b) The Contractor shall secure from each Contractor Party or Proposer Party, as appropriate, such document or instrument as necessary or appropriate as will vest in the Contractor plenary authority to bind the Contractor Parties and Proposer Parties to the full extent necessary or appropriate to give full effect to all of the terms and conditions of this section. The Contractor shall provide, no later than fifteen (15) days after receiving a request from the State, such information as the State may require to evidence, in the State's sole determination, compliance with this section.
6. Order and Delivery. The Contract shall bind the Contractor to furnish and deliver the Goods or Services in accordance with Exhibit A and at the prices set forth in Exhibit B. Subject to the sections in this Contract concerning Force Majeure, Termination, Cancellation Expiration and Open Market Purchases, the Contract shall bind the Client Agency to order the Goods or Services from the Contractor, and to pay for the accepted Goods or Services in accordance with Exhibit B.
  7. Contract Amendments. Except for extensions made in accordance with the section in this Contract concerning Term of Contract; Effective Date, no amendment to or modification or other alteration of the Contract shall be valid or binding upon the State unless made in writing, signed by both parties and, if applicable, approved by the Connecticut Attorney General.
  8. Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of DAS. DAS may void any purported assignment in violation of this section and declare the Contractor in breach of Contract. Any Cancellation by DAS for a breach is without prejudice to DAS's or the State's rights or possible Claims.
  9. Termination, Cancellation and Expiration.
    - (a) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may Terminate the Contract whenever DAS makes a written determination that such Termination is in the best interests of the State. DAS shall notify the Contractor in writing of Termination pursuant to this section, which notice shall specify the effective date of

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Termination and the extent to which the Contractor must complete Performance under the Contract prior to such date. The Contractor is not entitled to receive and the State is not obligated to tender to the Contractor any payments or reimbursements for anticipated or lost profits.

- (b) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Cancel the Contract in accordance with the provisions in the Breach section of this Contract.
- (c) DAS shall send the notice of Termination or Cancellation via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to DAS for purposes of correspondence, or by hand delivery. Upon receiving such notice from DAS, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Client Agency all Records. The Records are deemed to be the property of the Client Agency and the Contractor shall deliver them to the Client Agency no later than thirty (30) days after the Termination, Cancellation or Expiration of the Contract or fifteen (15) days after the Contractor receives a written request from DAS for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
- (d) Upon receipt of a written notice of Termination or Cancellation from DAS, the Contractor shall cease operations as directed by DAS in the notice, and take all actions that are necessary or appropriate, or that DAS may reasonably direct, for the protection and preservation of the Goods and any other property. Except for any work which DAS directs the Contractor to Perform in the notice prior to the effective date of Termination or Cancellation, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- (e) To the extent that the Client Agency has issued a purchase order prior to the notice of Termination and the Contractor has begun Performance against that purchase order in good faith, the Client Agency shall, within forty-five (45) days of having received an invoice from the Contractor for such Performance, pay or reimburse the Contractor for its Performance rendered and accepted by the Client Agency in accordance with Exhibit A. In addition, the Client Agency shall also pay or reimburse the Contractor for all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. Upon and as requested by the Client Agency or DAS and after consent of the Contractor's subcontractors, if any, and if their consent is required, the Contractor shall (1) assign to the Client Agency, or any replacement contractor which the Client Agency or DAS designates, all subcontracts, purchase orders and other commitments, (2) deliver to the Client Agency all Records and other information pertaining to its Performance, and (3) remove from State premises, whether leased or owned, all such equipment, waste material and rubbish related to its Performance, all as the Client Agency or DAS may request.
- (f) For breach or violation of any of the provisions in the section concerning Representations and Warranties, DAS may Cancel the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
- (g) Upon Termination, Cancellation or Expiration of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination, Cancellation or Expiration of the Contract. All representations, warranties, agreements and rights of the

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parties under the Contract shall survive such Termination, Cancellation or Expiration to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.

(h) Termination or Cancellation of the Contract pursuant to this section shall not be deemed to be a breach of contract by DAS.

10. Cost Modifications. The parties may agree to a reduction in the cost of the Contract at any time during which the Contract is in effect. Without intending to impose a limitation on the nature of the reduction, the reduction may be to hourly, staffing or unit costs, the total cost of the Contract or the reduction may take such other form as the State deems to be necessary or appropriate.

11. Breach. If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of such breach to the breaching party and afford the breaching party an opportunity to cure the breach within ten (10) days from the date that the breaching party receives such notice. Any other time provided for in the notice shall trump such ten (10) days. Such right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Contract Cancellation date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Cancellation date, no further action shall be required of any party to effect the Cancellation as of the stated date. If the notice does not set forth an effective Contract Cancellation date, then the non-breaching party may Cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written notice. If DAS believes that the Contractor has not performed according to the Contract, the Client Agency may withhold payment in whole or in part pending resolution of the Performance issue, provided that DAS notifies the Contractor in writing prior to the date that the payment would have been due in accordance with Exhibit B.

12. Waiver.

(a) No waiver of any breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity.

(b) A party's failure to insist on strict performance of any provision of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of Performance and shall not be deemed to be a waiver of any subsequent rights, remedies or breach.

13. Open Market Purchases. Except to the extent that the Contractor is performing within a right to cure period, failure of the Contractor to Perform within the time specified in the Contract, or failure to replace rejected or substandard Goods or fulfill unperformed Services when so requested and as the Contract provides or allows, constitutes a breach of the Contract and as a remedy for such breach, such failure shall constitute authority for DAS, if it deems it to be necessary or appropriate in its sole discretion, to Cancel the Contract and/or to purchase on the open market, Goods or Services to replace those which have been rejected, not delivered, or not performed. The Client Agency shall invoice the Contractor for all such purchases to the extent that they exceed the costs and expenses in Exhibit B and the Contractor shall pay the Client Agency's invoice immediately after receiving the invoice. If DAS does not Cancel the Contract, the Client Agency will deduct such open market purchases from the Contract quantities. However, if the Client Agency deems it to be in the best interest of the State, the

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Client Agency may accept and use the Goods or Services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Client Agency.

**14. Purchase Orders.**

- (a) The Contract itself is not an authorization for the Contractor to ship Goods or begin Performance in any way. The Contractor may begin Performance only after it has received a duly issued purchase order against the Contract for Performance.
- (b) The Client Agency shall issue a purchase order against the Contract directly to the Contractor and to no other party.
- (c) All purchase orders shall be in written or electronic form, bear the Contract number (if any) and comply with all other State and Client Agency requirements, particularly the Client Agency's requirements concerning procurement. Purchase orders issued in compliance with such requirements shall be deemed to be duly issued.
- (d) A Contractor making delivery without a duly issued purchase order in accordance with this section does so at the Contractor's own risk.
- (e) The Client Agency may, in its sole discretion, deliver to the Contractor any or all duly issued purchase orders via electronic means only, such that the Client Agency shall not have any additional obligation to deliver to the Contractor a "hard copy" of the purchase order or a copy bearing any hand-written signature or other "original" marking.

**15. Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance of the Contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a Certificate of Insurance to

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DAS, except that the Contractor shall not provide a copy to DAS if the Client Agency is the State Department of Transportation, prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the Certificate of Insurance to DAS. Upon request of the Client Agency, the Contractor shall provide a Certificate of Insurance to the Client Agency.

- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- (f) This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.

16. Forum and Choice of Law. The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

17. Contractor Guaranties. Contractor shall:

- (a) Perform fully under the Contract;
- (b) Guarantee the Goods or Services against defective material or workmanship and to repair any damage or marring occasioned in transit or, at the Client Agency's option, replace them;
- (c) Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the premises, Goods, the Contractor's work or that of Contractor Parties;
- (d) With respect to the provision of Services, pay for all permits, licenses and fees and give all required or appropriate notices;
- (e) Adhere to all Contractual provisions ensuring the confidentiality of Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law; and
- (f) Neither disclaim, exclude nor modify the implied warranties of fitness for a particular purpose or of merchantability.

18. Implied Warranties. DAS does not disclaim, exclude or modify the implied warranty of fitness for a particular purpose or the warranty of merchantability.

19. Goods, Standards and Appurtenances. Any Goods delivered must be standard new Goods, latest model, except as otherwise specifically stated in the Contract. Remanufactured, refurbished or reconditioned equipment may be accepted but only to the extent allowed under the Contract. Where the Contract does not specifically list or describe any part or nominal appurtenances of equipment for the Goods, it shall be understood that the Contractor shall

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deliver such parts and appurtenances as are usually provided with the manufacturer's stock model.

20. Delivery.

- (a) Delivery shall be made as ordered and in accordance with the Contract. Unless otherwise specified in the Contract, delivery shall be to a loading dock or receiving platform. The Contractor or Contractor's shipping designee shall be responsible for removal of Goods from the carrier and placement on the Client Agency loading dock or receiving platform. The receiving personnel of the Client Agency are not required to assist in this process. The decision of DAS as to reasonable compliance with delivery terms shall be final and binding. The burden of proof of proper receipt of the order shall rest with the Contractor.
- (b) In order for the time of delivery to be extended, the Client Agency must first approve a request for extension from the time specified in the Contract, such extension applying only to the particular item or shipment.
- (c) Goods shall be securely and properly packed for shipment, according to accepted standard commercial practice, without extra charge for packing cases, baling or sacks. The containers shall remain the property of the Client Agency unless otherwise stated in the Proposal.
- (d) All risk of loss and damage to the Goods transfers to the Client Agency upon Title vesting in the Client Agency.

21. Goods Inspection. The Client Agency shall determine the manner and prescribe the inspection of all Goods and the tests of all samples submitted to determine whether they comply with all of the specifications in the Contract. If any Goods fail in any way to meet the specifications in the Contract, the Client Agency may, in its sole discretion, either reject it and owe nothing or accept it and pay for it on an adjusted price basis, depending on the degree to which the Goods meet the specifications. Any decision pertaining to any such failure or rejection shall be final and binding.

22. Setoff. In addition to all other remedies that DAS may have, the State, in its sole discretion, may setoff (1) any costs or expenses that the State incurs resulting from the Contractor's unexcused nonperformance under the Contract and under any other agreement or arrangement that the Contractor has with the State and (2) any other amounts that are due or may become due from the State to the Contractor, against amounts otherwise due or that may become due to the Contractor under the Contract, or under any other agreement or arrangement that the Contractor has with the State. The State's right of setoff shall not be deemed to be the State's exclusive remedy for the Contractor's or Contractor Parties' breach of the Contract, all of which shall survive any setoffs by the State.

23. Force Majeure. The State and the Contractor shall not be excused from their obligation to Perform in accordance with the Contract except in the case of Force Majeure events and as otherwise provided for in the Contract. In the case of any such exception, the nonperforming party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance.

24. Advertising. The Contractor shall not refer to sales to the State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without DAS's prior written approval.

25. Americans With Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the term of the Contract. DAS may Cancel the Contract if the Contractor fails to comply with the Act.

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26. Representations and Warranties. The Contractor, and the Proposer, as appropriate, represent and warrant to DAS for itself, Contractor Parties and Proposer Parties, as appropriate, that:

- (a) if they are entities, they are duly and validly existing under the laws of their respective states of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, they have taken all necessary action to authorize the execution, delivery and Performance of the Proposal and the Contract and have the power and authority to execute, deliver and Perform their obligations under the Contract;
- (b) they will comply with all applicable State and Federal laws and municipal ordinances in satisfying their obligations to the State under and pursuant to the Contract, including, but not limited to (1) Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics and (2) Title 4a concerning State purchasing, including, but not limited to 22a-194a concerning the use of polystyrene foam;
- (c) the execution, delivery and Performance of the Contract will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (1) any provision of law; (2) any order of any court or the State; or (3) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- (d) they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- (e) as applicable, they have not, within the three years preceding the Contract, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would Perform under the Contract, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a transaction or contract with any governmental entity. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (f) they are not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
- (g) they have not within the three years preceding the Contract had one or more contracts with any governmental entity Cancelled;
- (h) they have not employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure the Contract and that they have not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of the Contract or any assignments made in accordance with the terms of the Contract;
- (i) to the best of their knowledge, there are no Claims involving the Proposer, Proposer Parties, Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract;
- (j) they shall disclose, to the best of their knowledge, to DAS in writing any Claims involving them that might reasonably be expected to materially adversely affect their businesses,

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operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. For purposes of the Contractor's obligation to disclose any Claims to DAS, the ten (10) Days in the section of this Contract concerning Disclosure of Contractor Parties Litigation shall run consecutively with the ten (10) Days provided for in this representation and warranty;

- (k) their participation in the Request for Proposals process is not a conflict of interest or a breach of ethics under the provisions of Title 1, Chapter 10 of the Connecticut General Statutes concerning the State's Code of Ethics;
- (l) the Proposal was not made in connection or concert with any other person, entity or Proposer, including any affiliate (as defined in the Tangible Personal Property section of this Contract) of the Proposer, submitting a Proposal for the same Goods or Services, and is in all respects fair and without collusion or fraud;
- (m) they are able to Perform under the Contract using their own resources or the resources of a party who is not a Proposer;
- (n) the Contractor shall obtain in a written contract all of the representations and warranties in this section from any Contractor Parties and to require that provision to be included in any contracts and purchase orders with Contractor Parties;
- (o) they have paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- (p) they have a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- (q) they owe no unemployment compensation contributions;
- (r) they are not delinquent in the payment of any taxes owed, or, that they have filed a sales tax security bond, and they have, if and as applicable, filed for motor carrier road tax stickers and have paid all outstanding road taxes;
- (s) all of their vehicles have current registrations and, unless such vehicles are no longer in service, they shall not allow any such registrations to lapse;
- (t) each Contractor Party has vested in the Contractor plenary authority to bind the Contractor Parties and Proposer Parties to the full extent necessary or appropriate to ensure full compliance with and Performance in accordance with all of the terms and conditions of the Contract and that all appropriate parties shall also provide to DAS, no later than fifteen (15) days after receiving a request from DAS, such information as DAS may require to evidence, in DAS's sole determination, compliance with this section;
- (u) except to the extent modified or abrogated in the Contract, all Title shall pass to the Client Agency upon complete installation, testing and acceptance of the Goods or Services and payment by the Client Agency;
- (v) if either party Terminates or Cancels the Contract, for any reason, they shall relinquish to the Client Agency all Title to the Goods delivered, accepted and paid for (except to the extent any invoiced amount is disputed) by the Client Agency;
- (w) with regard to third party products provided with the Goods, they shall transfer all licenses which they are permitted to transfer in accordance with the applicable third party license;

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- (x) they shall not copyright, register, distribute or claim any rights in or to the Goods after the effective date of the Contract without DAS's prior written consent;
- (y) they either own or have the authority to use all Title of and to the Goods, and that such Title is not the subject of any encumbrances, liens or claims of ownership by any third party;
- (z) the Goods do not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (aa) the Client Agency's use of any Goods shall not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (bb) if they procure any Goods, they shall sub-license such Goods and that the Client Agency shall be afforded the full benefits of any manufacturer or subcontractor licenses for the use of the Goods; and
- (cc) they shall assign or otherwise transfer to the Client Agency, or afford the Client Agency the full benefits of any manufacturer's warranty for the Goods, to the extent that such warranties are assignable or otherwise transferable to the Client Agency.

27. Representations and Warranties Concerning Motor Vehicles. If in the course of Performance or in any other way related to the Contract the Contractor at any time uses or operates "motor vehicles," as that term is defined by Conn. Gen. Stat. §14-1(53) (including, but not limited to such services as snow plowing, sanding, hauling or delivery of materials, freight or merchandise, or the transportation of passengers), the Contractor, and the Proposer, as appropriate, represent and warrant for itself, the Contractor Parties and Proposer Parties, as appropriate, that:

- (a) It is the owner of record or lessee of record of each such motor vehicle used in the Performance of the Contract, and each such motor vehicle is duly registered with the Connecticut Department of Motor Vehicles ("ConnDMV") in accordance with the provisions of Chapter 246 of the Connecticut General Statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV, for any reason or cause. If such motor vehicle is not registered with ConnDMV, then it shall be duly registered with another state or commonwealth in accordance with such other state's or commonwealth's applicable statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by such other state or commonwealth for any reason or cause.
- (b) Each such motor vehicle shall be fully insured in accordance with the provisions of Sections 14-12b, 14-112 and 38a-371 of the Connecticut General Statutes, as amended, in the amounts required by the said sections or in such higher amounts as have been specified by ConnDMV as a condition for the award of the Contract, or in accordance with all substantially similar provisions imposed by the law of the jurisdiction where the motor vehicle is registered.
- (c) Each Contractor Party who uses or operates a motor vehicle at any time in the Performance of the Contract shall have and maintain a motor vehicle operator's license or commercial driver's license of the appropriate class for the motor vehicle being used or operated. Each such license shall bear the endorsement or endorsements required by the provisions of Section 14-36a of the Connecticut General Statutes, as amended, to operate such motor vehicle, or required by substantially similar provisions imposed by the law of another jurisdiction in which the operator is licensed to operate such motor vehicle. The license shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV or such other jurisdiction for any reason or cause.

- (d) Each motor vehicle shall be in full compliance with all of the terms and conditions of all provisions of the Connecticut General Statutes and regulations, or those of the jurisdiction where the motor vehicle is registered, pertaining to the mechanical condition, equipment, marking and operation of motor vehicles of such type, class and weight, including, but not limited to, requirements for motor vehicles having a gross vehicle weight rating of 18,000 pounds or more or motor vehicles otherwise described by the provisions of Conn. Gen. Stat. § 14-163c(a) and all applicable provisions of the Federal Motor Carrier Safety Regulations, as set forth in Title 49, Parts 382 to 399, inclusive, of the Code of Federal Regulations.
28. Disclosure of Contractor Parties Litigation. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
29. Entirety of Contract. The Contract is the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the parties, whether written or oral. The Contract has been entered into after full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in the Contract.
30. Exhibits. All exhibits referred to in and attached to this Contract are incorporated in this Contract by such reference and shall be deemed to be a part of it as if they had been fully set forth in it.
31. Executive Orders. The Contract is subject to the provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms, Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17<sup>th</sup>, 2006, concerning procurement of cleaning products and services, Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.
32. Non-discrimination. References in this section to "contract" shall mean this Contract and references to "contractor" shall mean the Contractor.
- (a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:
- (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation,

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- mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved;
- (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
  - (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f;
  - (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.
- (b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
- (c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons:
- (1) Who are active in the daily affairs of the enterprise,
  - (2) who have the power to direct the management and policies of the enterprise and
  - (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
- (d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (f) The contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and

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such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

- (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
- (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
- (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56;
- (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(i) For the purposes of this entire Non-Discrimination section, "contract" includes any extension or modification of the contract, "contractor" includes any successors or assigns of the contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "contract" does not include a contract where each contractor is

1. a political subdivision of the state, including, but not limited to, a municipality,

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2. a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120,
  3. any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267,
  4. the federal government,
  5. a foreign government, or
  6. an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).
33. Tangible Personal Property. The Contractor on its behalf and on behalf of its Affiliates, as defined below, shall comply with the provisions of Conn. Gen. Stat. §12-411b, as follows:
- (a) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;
  - (b) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;
  - (c) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
  - (d) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
  - (e) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.

For purposes of this section of the Contract, the word "Affiliate" means any person, as defined in section 12-1 of the general statutes, that controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word "voting security" means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. "Voting security" includes a general partnership interest.

The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State's contracting authority, such information as the State may require to ensure, in the State's sole determination, compliance with the provisions of the Act.

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34. **Whistleblowing.** This Agreement is subject to the provisions of §4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.
35. **Notice.** All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Contract (for the purpose of this section collectively called "Notices") shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested or placed with a recognized, overnight express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to DAS:

State of Connecticut, Department of Administrative Services  
165 Capitol Ave, 5<sup>th</sup> Floor South  
Hartford, CT 06106-1659  
Attention: Tony Deluca

If to the Contractor:

COMPANY NAME: CED d/b/a All-Phase Electric Supply Company

NAME: Jack Scavone

ADDRESS Line 1: PO Box 397 East Windsor Hill CT 06028

ADDRESS Line 2: 15 Commerce Way

City: South Windsor State: CT Zip: 06074

Attention: Company: Jack Scavone

Signatory Name: \_\_\_\_\_ Title: Manager

State of Connecticut Department of Administrative Services  
165 Capitol Ave, 5<sup>th</sup> Floor South  
Hartford, CT 06106-1659  
Attention: Tony Deluca

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36. Insurance. Before commencing Performance, the Contractor shall obtain and maintain at its own cost and expense for the duration of the Contract, the following insurance as described in (a) through (h) below. Contractor shall assume any and all deductibles in the described insurance policies. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

(a) Reserved

(b) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the occurrence limit.

(c) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.

(d) Workers' Compensation and Employers Liability: Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

(e) Reserved

(f) Umbrella Liability: Excess/umbrella liability insurance may be included to meet minimum requirements. Umbrella coverage must indicate the existing underlying insurance coverage.

(g) Claims Made: Not acceptable with the exception of Professional Liability when specified.

(h) Reserved

37. Headings. The headings given to the sections in the Contract are inserted only for convenience and are in no way to be construed as part of the Contract or as a limitation of the scope of the particular section to which the heading refers.

38. Number and Gender. Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.

39. Parties. To the extent that any Contractor Party or Proposer Party is to participate or Perform in any way, directly or indirectly in connection with the Proposal or the Contract, any reference in the Request for Proposals and the Contract to "Contractor" or "Proposer" shall also be deemed to include "Contractor Parties" or "Proposer Parties," respectively, as if such reference had originally specifically included "Contractor Parties" or "Proposer Parties," since it is the parties' intent for the terms "Contractor Parties" and "Proposer Parties" to be vested with the same respective rights and obligations as the terms "Contractor" and "Proposer."

40. Contractor Changes. The Contractor shall notify DAS in writing no later than ten (10) Days from the effective date of any change in:

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- a) its certificate of incorporation or other organizational document;
- b) more than a controlling interest in the ownership of the Contractor; or
- c) the individual(s) in charge of the Performance.

This change shall not relieve the Contractor of any responsibility for the accuracy and completeness of the Performance. DAS, after receiving written notice by the Contractor of any such change, may require such agreements, releases and other instruments evidencing, to DAS's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that provision has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to DAS in accordance with the terms of DAS's written request. DAS may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to Perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to Perform under the Contract until Performance is fully completed.

- 41. **Further Assurances.** The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provisions of this Contract and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Contract, in order to give full effect to the Contract and to carry out the intent of the Contract.
- 42. **Audit and Inspection of Records.** The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents. Requests for any audit or inspection shall be in writing, at least ten (10) Days prior to the requested date. All audits and inspections shall be at the State's expense. The State may request an audit or inspection at any time during the Contract term and for three (3) years from Termination, Cancellation or Expiration of the Contract. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- 43. **Background Checks.** The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Public Safety Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.
- 44. **Continued Performance.** The Contractor and Contractor Parties shall continue to Perform their obligations under the Contract while any dispute concerning the Contract is being resolved.
- 45. **Working and Labor Synergies.** The Contractor shall be responsible for maintaining a tranquil working relationship between the Contractor work force, the Contractor Parties and their work force, State employees, and any other contractors present at the work site. The Contractor shall quickly resolve all labor disputes which result from the Contractor's or Contractor Parties' presence at the work site, or other action under their control. Labor disputes shall not be deemed to be sufficient cause to allow the Contractor to make any claim for additional compensation for cost, expenses or any other loss or damage, nor shall those

disputes be deemed to be sufficient reason to relieve the Contractor from any of its obligations under the Contract.

46. Contractor Responsibility.

- (a) The Contractor shall be responsible for the entire Performance under the Contract regardless of whether the Contractor itself performs. The Contractor shall be the sole point of contact concerning the management of the Contract, including Performance and payment issues. The Contractor is solely and completely responsible for adherence by the Contractor Parties to all applicable provisions of the Contract.
- (b) The Contractor shall exercise all reasonable care to avoid damage to the State's property or to property being made ready for the State's use, and to all property adjacent to any work site. The Contractor shall promptly report any damage, regardless of cause, to the State.

47. Severability. If any term or provision of the Contract or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the Contract or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the Contract shall be valid and enforced to the fullest extent possible by law.

48. Confidential Information. The State will afford due regard to the Proposer's and Contractor's request for the protection of proprietary or confidential information which the State receives. However, all materials associated with the Proposal and the Contract are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the Proposer or Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the vendor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Proposer or Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, especially including the Proposal, the Records and the specifications, conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Proposer or Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as CONFIDENTIAL, DAS will endeavor to keep said information confidential to the extent permitted by law. DAS, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Contractor shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall DAS or the State have any liability for the disclosure of any documents or information in its possession which the State or DAS believes are required to be disclosed pursuant to the FOIA or other requirements of law.

49. Interpretation. The Contract contains numerous references to statutes and regulations. For purposes of interpretation, conflict resolution and otherwise, the content of those statutes and regulations shall govern over the content of the reference in the Contract to those statutes and regulations.

50. Cross-Default.

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- (a) If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under the Contract, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to perform under any or all other agreements or arrangements (“Other Agreements”) that the Contractor or Contractor Parties have with DAS. Accordingly, DAS may then exercise at its sole option any and all of its rights or remedies provided for in the Contract or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS, as if the Contractor or Contractor Parties had suffered a breach, default or failure to perform under the Other Agreements.
  - (b) If the Contractor or Contractor Parties breach, default or in any way fail to perform satisfactorily under any or all Other Agreements with DAS or the State, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to Perform under the Contract. Accordingly, the State may then exercise at its sole option any and all of its rights or remedies provided for in the Other Agreements or the Contract, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS or the State, as if the Contractor or Contractor Parties had suffered a breach, default or failure to Perform under the Contract.
51. Disclosure of Records. The Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this section, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.
52. Summary of State Ethics Laws. Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.
53. Sovereign Immunity. The parties acknowledge and agree that nothing in the Request for Proposals or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
54. Time of the Essence. Time is of the essence with respect to all provisions of this Agreement that specify a time for performance; provided, however, that this provision shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
55. Reserved
56. Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign

Contribution and Solicitation Ban. With regard to a State contract as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this submission in response to the State's solicitation expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising prospective state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See Exhibit C, SEEC Form 11.

57. Health Care Portability and Accountability Act of 1996 (“HIPAA”).

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (hereinafter “Department”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions.
  - (1) “Breach” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1)).’
  - (2) “Business Associate” shall mean the Contractor.
  - (3) “Covered Entity” shall mean the Department of the State of Connecticut named on page 1 of this Contract.
  - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
  - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).

- (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
- (7) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
- (8) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- (9) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.
- (10) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- (11) “More stringent” shall have the same meaning as the term “more stringent” in 45 C.F.R. § 160.202.
- (12) “This Section of the Contract” refers to the HIPAA Provisions stated herein, in their entirety.
- (13) “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.
- (14) “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
- (15) “Unsecured protected health information” shall have the same meaning as the term as defined in § 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).

(h) Obligations and Activities of Business Associates.

- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.

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- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees that at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not directly or indirectly receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly

authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act,(42 U.S.C. § 17935(d)(2)) and in any accompanying regulations

(16) Obligations in the Event of a Breach

- (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. § 17932(b) and the provisions of this section of the contract.
- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. § 17932(g)) . A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
  - 1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
  - 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
  - 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
  - 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
  - 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and contact information for said official.
- (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.

- (E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(i) Permitted Uses and Disclosure by Business Associate.

- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- (2) Specific Use and Disclosure Provisions.
  - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
  - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
  - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
  - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
  - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
  - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination.

- (A) Except as provided in (1)(2) above, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

- (3) **Survival.** The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) **Effect on Contract.** Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) **Construction.** This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

58. Encryption of Data.

- (a) Contractor and Contractor Parties, at its own expense, shall keep and maintain in an encrypted state any and all electronically stored data now or hereafter in its possession or control located on non-state owned or managed devices that the State, in accordance with its existing state policies classifies as confidential or restricted. The method of encryption shall be compliant with the State of Connecticut Enterprise Wide Technical Architecture (EWTA). This shall be a continuing obligation for compliance with the EWTA standard as it may be amended or supplemented from time to time.
- (b) In the event of a breach of security or loss of State data, the Contractor and Contractor Parties shall notify the Client Agency which owns the data, DAS, the Connecticut Department of Information Technology and the Connecticut Office of the Attorney General as soon as practical but no later than 24 hours after the discovery or reason to believe such breach or loss that such data has been compromised through breach or loss.

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IN WITNESS WHEREOF, the parties have executed this Contract by their duly authorized representatives with full knowledge of and agreement with its terms and conditions.

Consolidated Electrical Distributors, Inc.

d/b/a

All Phase Electric Supply Company

STATE OF CONNECTICUT  
Department of Administrative Services

By: \_\_\_\_\_

By: \_\_\_\_\_

Jack Scavone

Carol Wilson

Print or Type Name

Print or Type Name

Title: Manager

Title: Director of Procurement

Date: 12/29/2010

Date: 1/4/2011

**EXHIBIT A**

**DESCRIPTION OF GOODS AND SERVICES**

This purpose of this contract is to provide electrical supplies for the State, political subdivisions and qualified non-profits.

**General Requirements:**

- Contractor must maintain the capability to provide the required products, designated customer service representatives (csr), outside sales and technical representatives, all of which have comprehensive knowledge of the proposed products.
- Maintain the levels of manufacturers' and product as indicated in "Exhibit B"
- Provide technical information/knowledge regarding those products
- Maintain the capability to recommend, consult and demonstrate the products and supplies and provide examples.
- Maintain 24/7 capability for emergencies – person to person answering service (no voice mail or answering machines) for off hours/days.
- Maintain named (dedicated) customer service representative(s) to manage all account requirements and update as required.

**Product Requirements:**

- All items shall be new, specified for the U.S. market, unused, of the latest model or design and of recent manufacture.
- Items shall be delivered in factory packaging with any additional packaging required to ensure delivery free of damage. All manuals and warranty information shall be included.
- Materials shall conform to all of the latest codes, regulations, and meet all requirements for the uses for which the item(s) is (are) intended.
- Refurbished products and product substitutions are not allowed without prior approval by the Agency.
- Energy Star Compliance: where appropriate for all products Contractor must inform Agencies of options, identifying which products meet the required standards and provide technical assistance in product selection.

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RFP Contract - Exhibit A - Description of Goods and Services-NEW 1/09

- All products are F.O.B. delivered including packing per destination with no additional charges.

**Ordering Procedure/Order Fulfillment/Delivery Requirements:**

Emergency orders for stocked items will be given priority status and delivered the same or next business day.

Standard products shall be delivered within 24-48 hours. Non-standard or custom product orders shall be delivered within ten (10) business days; if delivery is not possible for reasons acceptable to the agency, the Contractor shall provide a mutually acceptable, firm delivery date.

Agencies may return unopened or unused items within thirty (30) days of receipt for full credit. There will be no re-stocking/cancellation fees.

**Pricing:**

Pricing is based on percentage discounts from the manufacturers COLUMN # 3 prices as found in the Trade Service TRA-SER® SX Price Directory Software, according to updates, for all but specialized, custom or non-standard items. The discounts offered in the proposal will remain firm throughout the term of the contract.

The State reserves the right to renegotiate the discounts if it is in the best interests of the State.

Contractor shall maintain a subscription to the Trade Service TRA-SER® SX Price Directory Software updates, throughout the life of the contract. For more information on Trade Service TRA-SER® SX Price Directory Software, contact:

Trade Service Company  
Karen Hart, Sales Manager, Government and Education Markets  
800-854-1527 ex. 1533 or 352-683-6115  
Email: [karen\\_hart@tradeservice.com](mailto:karen_hart@tradeservice.com)

Trade Service TRA-SER® SX Price Directory Software shall be used to establish the manufacturer's published prices. The Trade Service TRA-SER® SX Price Directory Software aggregates and regularly updates pricing information for the products incorporated into this contract.

All costs associated with the procurement and use of Trade Service software is the responsibility of the Contractor.

The Contractor shall have the Trade Service program operational prior to the contract start date.

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RFP Contract - Exhibit A - Description of Goods and Services-NEW 1/09

In the event that Trade Service issues improved software package prior to or during the term of this contract, the Contractor will begin using the upgraded version within thirty (30) days of its release.

On the date of any order, the pricing for said order will be correlated to the most current update of the TRA-SER® SX Price Directory Software, with the exception of those items listed in Exhibit B – Market Basket which will be fixed for six (6) months and three (3) months for Wire.

The State reserves the right to acquire manufacturers' pricing information from sources other than the TRA-SER® SX Price Directory Software to be used as the basis for establishing contract pricing.

The Contractor shall provide price verification to contract users upon request. Price verification will include manufacturer name, catalog number/and or UPC number, Manufacturers List Price and contract price.

The offered discount structure shall remain firm for the term of the contract. Price changes from the manufacturer as listed in the TRA-SER® SX Price Directory Software will be passed on. There will be no allowance for price increases on orders already placed with the contractor.

### **Reporting and Records Requirements:**

The Contractor will be required to provide to DAS various reports which include but are not limited to:

- Spend - variations of
- Users - all
- Items purchased – all
- Level III for credit card purchases
- Any other reports which DAS deems necessary to determine the success of the contract and which are within the realm of the Contractor's data capture/reporting capabilities as determined by DAS.

### **Mandatory Extension to State Entities:**

Contractor is required to offer and extend this contract (including pricing, terms and conditions) to Political Sub-Divisions of the State (Towns and Municipalities), Schools, and Not-For-Profit Organizations.

When a Political Sub-Division, School, and/or Not-For-Profit Organization utilize this contract all references to the "State" are hereby replaced with the Name of the Using Sub-Division, School, or the name of the Not-For-Profit Organization.

**P-Card (Purchasing Credit Card):**

The State of Connecticut uses a MasterCard purchasing card for order placement and payment in many instances. Contractors who accept credit cards should anticipate that some or all orders issued as a result of this request for proposal may be paid by using the purchasing card. The Contractor shall be aware that he/she is responsible for the credit card user handling fee associated with credit card purchases. Contractors should only charge to the State's MasterCard when the goods are delivered (physical receipt of goods, at store), or are shipped.

Questions regarding the State of Connecticut MasterCard Program should be directed to Ms. Kerry DiMatteo, Procurement Card Program Administrator at (860) 713-5072.

**E-Commerce (Electronic Commerce):**

The State of Connecticut utilizes an internet-based E-Procurement ordering system (PeopleSoft/Oracle), known as Core-CT. Contractor is required to accept purchase orders from the State of Connecticut through this system.

Contractors shall provide the State of Connecticut with functional data files that include specific formats for product and pricing information. These functional data files will then be loaded into a catalog on this system for ordering purposes.

Detailed information on E-Commerce/Data File Requirements and Core-CT is available at

[http://www.das.state.ct.us/Purchase/New\\_purchHome/busopp\\_template.asp?F\\_ID=23](http://www.das.state.ct.us/Purchase/New_purchHome/busopp_template.asp?F_ID=23)

**Initial Notification**

- Contractors will be notified that a functional data file is needed.
- Contractors shall provide functional data files within ten (10) business days from the date of notification.
- Failure to provide functional data files within the time allotted will constitute a breach of contract.

**Data Updates**

- During the term of the contract, data file updates (price changes, product changes) must be provided in the format specified.
- Frequency of data file updates is outlined in the pricing specifications section of this document. Additional information on data updates is available in the supplier kit found at:  
[http://www.das.state.ct.us/Purchase/New\\_purchHome/busopp\\_template.asp?F\\_ID=23](http://www.das.state.ct.us/Purchase/New_purchHome/busopp_template.asp?F_ID=23)
- Existing pricing/product information will remain in effect until a functional data update is received and a contract supplement is issued.

RFP 10PSX0090 Exhibit B Price Schedule

Contractor Name:		CED dba All-Phase Electric Supply				
Item	Manufacturer	Manufacturer Catalog Number	Manufacturer Product Description	UOM	Market Basket Price	
Market Basket Pricing for "Electrical Items" will be fixed for six (6) months and three (3) months for "Wire" initially and for each subsequent interval. Increases shall be allowed at the end of each periodic interval according to the pricing in "Trade Services" column three at that time.						
<b>Market Basket Electrical Items</b>						
1	OSRAM	LED50RETROFIT/7	SYL LED50RETROFIT/750/T5M/D6 (78628	ea	\$	505.00
2	BUSS	FNQ-8	BUSS FNQ-8 500V MIDGET TD FUSE	ea	\$	5.05
3	LITHONIA	TAF	LITH TAF 2 32 MVOLT 1/4 GEB10IS HEA	ea	\$	128.00
4	OSRAM	LU250/ECO	SYL LU250/ECO (67578) CLR E18MOG HP	ea	\$	7.95
5	ENERGIZER	EN91	EV-REDY EN91 1.5V AA INDUST BATTERY	ea	\$	0.24
6	OSRAM	FO32/741/ECO	SYL FO32/741/ECO (21999) RS OCTRON	ea	\$	0.91
7	BUSS	HEB-AW-RLC-A	BUSS HEB-AW-RLC-A FUSEHOLDER	ea	\$	16.30
8	ENERGIZER	EN92	EV-REDY EN92 AAA INDUST BATTERY	ea	\$	0.24
9	ADVANCE	ICN2P32N35I	ADV ICN2P32N35I 2-F32T8 UNIV BALLAST	ea	\$	9.48
10	OSRAM	LU200/ECO	SYL LU200/ECO (67576) CLR E18MOG HP	ea	\$	8.15
11	OSRAM	LED40POST/757/T	SYL LED40POST/757/T5S/D11/1G RET KT	ea	\$	489.00
12	ENERGIZER	EN22	EV-REDY EN22 9V INDUST BATTERY	ea	\$	0.93
13	ADVANCE	ICN4P32N35I	ADV ICN4P32N35I 4-F32T8 UNIV BALLAST	ea	\$	11.55
14	FEDSIGNL	50GC-120BG	FEDSIG 50GC-120BG 4-IN SQ SPEAKER	ea	\$	196.50
15	FEDSIGNL	50GC-120BG	FEDSIG 50GC-120BG 4-IN SQ SPEAKER	ea	\$	196.50
16	ENERGIZER	EN95	EV-REDY EN95 1/5V D INDUST BATTERY	ea	\$	0.57
17	BUSS	HEB-AW-RYC	BUSS HEB-AW-RYC FUSEHOLDER	ea	\$	27.85
18	OSRAM	FB032/741/6/ECO	SYL FB032/741/6/ECO (22052) BNT OCT	ea	\$	2.86
19	GELTG		GEL M2AR15P1A2GMN21 150W MHPS W/PE	ea	\$	175.00
20	INTERMAT	K4521	INT-MAT K4521 120V PHOTOCONTROL	ea	\$	15.20
21	GEEDC	CR309C123	GEA CR309C123 3P 208 REV STR 1 NEMA	ea	-	
22	COOPERLT		FAIL FAS-X-232-UNV80/96-LEOCH8-CPH	ea	\$	294.00
23	ADVANCE	ICN3P32N35I	ADV ICN3P32N35I 3-F32T8 UNIV BALLAST	ea	\$	11.10
24	ENERGIZER	EN93	EV-REDY EN93 1/5V C INDUST BATTERY	ea	\$	0.49
25	GELTG	MDRL40S1A21RMS3	GEL MDRL40S1A21RMS31 400W LUM	ea	\$	232.00
26	KIDDE	i12040	KID i12040 21006378 120V AC WITH 9V	ea	\$	7.95
27	OSRAM	LU400/ECO	SYL LU400/ECO (67533) CLR E18MOG HP	ea	\$	8.05
28	OSRAM	LU100/MULT-KIT	SYL LU100/MULT-KIT (47316) MAG HID	ea	\$	27.10
29	PASS	1595-I	P&S 1595-I GRCI RECEP 15A 125V 20A	ea	\$	6.85
30	GENERAC	5523	GENERAC 5523 17KW GT990 (3500 RPM)	ea	\$	3,752.00
31	EMEL	ELXN400R	EMEL ELXN400R SELF POWERED LED EXIT	ea	\$	11.95

RFP 10PSX0090 Exhibit B Price Schedule

Contractor Name:		CED dba All-Phase Electric Supply				
Item	Manufacturer	Manufacturer Catalog Number	Manufacturer Product Description	UOM	Market Basket Price	
<p style="text-align: center;"><b>Market Basket Pricing for "Electrical Items" will be fixed for six (6) months and three (3) months for "Wire" initially and for each subsequent interval. Increases shall be allowed at the end of each periodic interval according to the pricing in "Trade Services" column three at that time.</b></p>						
32	LITHONIA	2PM3NGB2U3169LD	LITH 2PM3NGB2U3169LDMVOLTGEB10IS FL	ea	\$	150.50
33	EMEL	EC2	EMEL EC2 6V 120/277V W/2 ADJ HEADS	ea	\$	37.95
34	OSRAM	F34CW/SS/ECO	SYL F34CW/SS/ECO	ea	\$	0.70
35	GENCBLE	04457.60.05	GENE 04457.60.05 16/3SJT 50FT METAL	ea	\$	17.75
37	3M	33+SUPER-3/4X66	3M 33+SUPER-3/4X66FT VINYL TAPE	ea	\$	3.22
38	BUSS	KTK-10	BUSS KTK-10 600V MIDGET FUSE	ea	\$	4.99
39	OSRAM	QHE-2X59T8/UNV-	SYL QHE-2X59T8/UNV-ISN-SC (49859) 2	ea	\$	20.95
40	PASS	1595-I	P&S 1595-I GFCI RECEP 15A 125V 20A	ea	\$	6.85
41	EMEL	ELXN400R2SQ	EMEL ELXN400R2SQ EXIT SIGN W/LAMP H	ea	\$	34.95
42	EMTCOND	034E	EMT 034E 3/4IN EMT CONDUIT 10FT	ea	\$	3.29
43	OSRAM	FO17/741/ECO	SYL FO17/741/ECO (21770) OCT FLUOR	ea	\$	1.20
44	PROCURE	STOCK	AG2 SD DRUM SWITCH	ea	\$	79.50
45	HOFFMAN	E6PB	HOFF E6PB 6H OT PB ENCL	ea	\$	73.95
46	OSRAM	FO32/735/ECO	SYL FO32/735/ECO (21998) RS OCTRON	ea	\$	0.92
47	BUSS	HEB-AW	BUSS HEB-AW TRON INLINE FUSEHOLDER	ea	\$	14.80
48	OSRAM	FP54/841/HO/ECO	SYL FP54/841/HO/ECO (20906) FLOUR L	ea	\$	2.75
49	PASS	2091I	P&S 2095-I GFCI RECEP 20A 125V 20A	ea	\$	7.89
50	OSRAM	M1000/MULTI-I/D	SYL M1000/MULTI-I/D (47207) MLT VOL	ea	\$	133.95
<b>Basket Wire</b>						
1	THHNCU	WIC. THHN 600MC	WIC. THHN 600MCM STR BLK MR	ft	\$	9.00
2	THHNCU	WIC. THHN 3/0 S	WIC. THHN 3/0 STR BLK MR	ft	\$	2.46
3	THHNCU	WIC. THHN 2 STR	WIC. THHN 2 STR BLK MR	ft	\$	1.01
4	THHNCU	WIC. THHN 1/0 S	WIC. THHN 1/0 STR BLK MR	ft	\$	1.56
5	THHNCU	WIC. THHN 1 STR	WIC. THHN 1 STR BLK MR	ft	\$	1.26
6	ROMEX	WIC ROMEX 14/2	WIC ROMEX 14/2 W/GRD 250C	ft	\$	0.20
7	ROMEX	WIC ROMEX 12/2	WIC ROMEX 12/2 W/GRD 250C	ft	\$	0.29

## RFP 10PSX0090 Exhibit B Price Schedule

<b>Contractor Name:</b>		<b>CED dba All-Phase Electric</b>
<b>Manufacturer / Product Line</b>		<b>Percentage Off Trade Service Column #3</b>
General Discount for all lines not listed below		20.00
3M, Connectors		29.00
3M, Electrical Tapes		23.00
<b>3M</b>		
Advance, Ballasts		81.00
<b>Advance</b>		
All Pro Lighting products		No Quote
Arlington products		50.00
B-Line Strut		85.00
B-Line		
Briscon Products		23.00
Burndy Products		No Quote
Bussman Products		65.00
Caddy Products		25.00
Crouse Hinds Products		No Quote
Cutler Hammer		No Quote
Dual Lite		35.00
Edwards-Electrical Supplies		28.00
Encore Wire		62.00
Enertron, Lighting Products		*not in trade, cost plus 12%
Firex Maple Chase		22.00
Flourolite, Lenses		*not in trade, cost plus 15%
Fluke, Tools, Test Equipment		18.00
GE Lamps all Others		No Quote
GE Lamps Fluorescent		No Quote
GE Lamps HID		No Quote
Gould Fuses		50.00
GreenLee-Factory Products		30.00
GreenLee-Tools (P.I.E)		35.00
Halco Ballasts		No Quote
Halco Lamps		No Quote
Halo products		No Quote
Halo, Lighting		No Quote
Hubbel Ground Fault Devices		58.00
Hubbell Lighting Exterior		47.00
Hubbell, Wall Plates		60.00
Hubbell, Wiring Devices		56.00
Ideal –Tape Insulating Material Heat Shrink tubing		32.00
Ideal Terminals		42.00
Ideal Testers & Instruments		27.00
Ideal Tools		43.00
Ideal, Connectors		40.00

## RFP 10PSX0090 Exhibit B Price Schedule

<b>Contractor Name:</b>	<b>CED dba All-Phase Electric</b>
<b>Manufacturer / Product Line</b>	<b>Percentage Off Trade Service Column #3</b>
IlSCO, Lugs	55.00
Intermatic –Photo Controls	32.00
Intermatic Products	27.00
Jasco Batteries	*not in trade, cost plus 8%
Klein, Tools	32.00
Lenox Products	*not in trade, cost plus 10%
Lenox-Tools	*not in trade, cost plus 10%
Leviton Decora Devices	46.00
Leviton Products	25.50
Leviton Twist lock Devices	29.00
Leviton Wall Plates	54.00
Leviton-SW Recept, plugs Conn-Comm	45.00
Lithonia, Fluorescent Fixtures	22.00
Lithonia	22.00
Little Fuse (Fuses)	30.00
Lumark Lighting	No Quote
Lutron Ballasts	20.00
Lutron, Dimmers	25.50
Nutone Fans	52.50
Nutone Products	52.50
Panduit-Raceways, Wireways, Strut,Cable Tray	23.00
Paralux Lighting	No Quote
Pass & Seymore Products	60.00
Phillips Lamps all Others	No Quote
Phillips Lamps Fluorescent	No Quote
Phillips Lamps HID	No Quote
Raco Products	NQ (See T&B Steel City)
Rayovac Batteries-Akaline	64.00
Rayovac Batteries-general purpose	40.50
Selecta Products (Batteries)	No Quote
Sensorswitch-Acuity	*not in trade, cost plus 8%
Siemens, Panels and Breakers	NQ (See Square D)
Simkar, Lighting	No Quote
Square D Circuit Breakers	68.00
Square D Nema Contactors & Starters	37.50
Square D Panelboards	68.00
Square D Safety Switches	65.00
Sure Lites Lighting	No Quote
Sylvania, Ballasts	72.25
Sylvania, Lamps	82.25
T&B Products	30.00
Thomas & Betts Steel City Boxes	84.00

RFP 10PSX0090 Exhibit B Price Schedule

<b>Contractor Name:</b>		<b>CED dba All-Phase Electric</b>
<b>Manufacturer / Product Line</b>		<b>Percentage Off Trade Service Column #3</b>
Thomas & Betts Wire		53.00
Universal Ballasts		45.00
Wiremold Products		26.00

**EXHIBIT C**

SEEC FORM 11

**NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN**

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

**Campaign Contribution and Solicitation Ban**

*No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;*

*In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.*

**Duty to Inform**

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

**Penalties for Violations**

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

**Contract Consequences**

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A 07-1 may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to “State Contractor Contribution Ban.”

**Definitions:**

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political

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subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv)

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serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

# **CONTRACT**

**10PSX0090**

Between

**THE STATE OF CONNECTICUT**

Acting by its

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**AND**

Sonepar Distributors of New England

dba

Northeast Electrical Distributors

Awarded Contractor

FOR THE PURCHASE AND SALE OF  
ELECTRICAL SUPPLIES

2/1/2011

Contract Award Date

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**Contract # 10PSX0090**

RFP Contract Rev. 7/09 – Prev. Rev. 6/09

This Contract (the “Contract”) is made as of the 20th day of January, in the year 2011, by and between, Sonepar Distributors of New England dba Northeast Electrical Distributors (the “Contractor,”) with a principal place of business at 560 Oak Street, Brockton, MA acting by Donald Block , its President and the State of Connecticut, Department of Administrative Services (“DAS”), with a principal place of business at 165 Capitol Ave, Hartford, Connecticut 06106-1659, acting by Carol Wilson, its Director, Procurement Services in accordance with Sections 4a-2 and 4a-51 of the Connecticut General Statutes.

Now therefore, in consideration of these presents, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the Contractor and the State agree as follows:

1. Definitions. Unless otherwise indicated, the following terms shall have the following corresponding definitions:
  - (a) Cancellation: An end to the Contract effected pursuant to a right which the Contract creates due to a breach.
  - (b) Claims: All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturred, contingent, known or unknown, at law or in equity, in any forum.
  - (c) Client Agency: All Using State Agencies and Political Subdivisions
  - (d) Contract: The agreement, as of its effective date, between the Proposer and the State for any or all Goods or Services at the Proposal price.
  - (e) Contractor: A person or entity who submits a Proposal and who executes a Contract.
  - (f) Contractor Parties: A Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.
  - (g) Day: All calendar days other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
  - (h) Expiration: An end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract’s term being completed.
  - (i) Force Majeure: Events that materially affect the cost of the Goods or Services or the time schedule within which to Perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
  - (j) Goods: For purposes of the Contract, all things which are movable at the time that the Contract is effective and which include, without limiting this definition, supplies, materials and equipment, as specified in the Request for Proposals and set forth in Exhibit A.
  - (k) Goods or Services: Goods, Services or both, as specified in the Request for Proposals and set forth in Exhibit A.

**Contract # 10PSX0090**

RFP Contract Rev. 7/09 – Prev. Rev. 6/09

- (l) Proposal: A Proposer's submittal in response to a Request for Proposals.
  - (m) Proposer Parties: A Proposer's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Proposer is in privity of oral or written contract and the Proposer intends for such other person or entity to Perform under the Contract in any capacity.
  - (n) Records: All working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
  - (o) Request for Proposals: A State request inviting proposals for Goods or Services. This Contract shall be governed by the statutes, regulations and procedures of the State of Connecticut, Department of Administrative Services.
  - (p) Services: The performance of labor or work, as specified in the Request for Proposals and set forth in Exhibit A.
  - (q) State: The State of Connecticut, including DAS, the Client Agency and any office, department, board, council, commission, institution or other agency of the State.
  - (r) Termination: An end to the Contract effected pursuant to a right which the Contract creates, other than for a breach.
  - (s) Title: all ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Goods or Services.
2. Term of Contract; Contract Extension. The Contract will be in effect from Date of Award through June 30, 2014. The State may extend this Contract in its sole discretion, prior to Termination, Expiration or Cancellation, one or more times for a combined total period not to exceed the complete length of the original term.
  3. Description of Goods or Services. The Contractor shall perform as set forth in Exhibit A. For purposes of this Contract, to perform and the performance in Exhibit A is referred to as "Perform" and the "Performance."
  4. Price Schedule, Payment Terms and Billing, and Price Adjustments.
    - (a) Price Schedule: Price Schedule under this Contract is set forth in Exhibit B.
    - (b) Payment Terms and Billing: Payment shall be made only after the Client Agency receives and accepts the Goods or Services and after it receives a properly completed invoice. Unless otherwise specified in the Contract, payment for all accepted Goods or Services shall be due within forty-five (45) days after acceptance of the Goods or Services, or thirty (30) days if the Contractor is a certified small contractor or minority business enterprise as defined in Conn. Gen. Stat. § 4a-60g. The Contractor shall submit an invoice to the Client Agency for the Performance. The invoice shall include detailed information for Goods or Services, delivered and performed, as applicable, and accepted. Any late payment charges shall be calculated in accordance with the Connecticut General Statutes.
    - (c) If applicable to and during the term of this Contract, the Price Schedule will be adjusted to reflect any increase in the minimum wage rate that may occur, as mandated by state law.

The Price Schedule will not be adjusted until the Contractor provides documentation, in the form of certified payroll or other documentation acceptable to the State, substantiating the increase in minimum wage rate.

- (d) Price Adjustments: Prices for the Goods or Services listed in Exhibit B shall remain unchanged for twelve (12) months following the effective date of the Contract. The Contractor shall have the right to request a price adjustment only during the thirty (30) days immediately preceding the annual anniversary dates of the effective date of the Contract during the term of the Contract. During this thirty (30) day period, the Contractor may submit a request in writing to DAS for a price adjustment that is consistent with and relative to price changes originating with and compelled by manufacturer and/or market trends and which changes are outside of the Contractor's control. The Contractor must fully document its request, attaching to the request, without limitation, such manufacturer and market data, as support the requested adjustment. DAS may, in its sole discretion, approve or disapprove the requested adjustment, in whole or in part. Any approved adjustment shall be final and shall remain unchanged until the next annual anniversary date of the effective date of the Contract.

The Contractor shall submit all requests in accordance with Section #35. Notice. A request made to the Client Agency shall not be valid and the parties shall treat it as if the Contractor had not made the request at all. A request made to the Client Agency shall not be considered timely and shall not toll or extend the running of the thirty (30) days. The right of the Contractor to request a particular price adjustment shall lapse upon the expiration of the applicable thirty (30) days. If the Contractor fails to make a timely request, then the price shall remain unchanged from the previous year and shall continue through the next succeeding twelve (12) months and until the second annual anniversary of the effective date of the Contract. If approved, price adjustments shall become effective ten (10) days after the date of the approval. The Contractor shall honor any purchase orders issued prior to the effective date of the approval at the price in effect at the time of the issuance of the purchase order.

5. Rejected Items; Abandonment.

- (a) The Contractor may deliver, cause to be delivered, or, in any other way, bring or cause to be brought, to any State premises or other destination, Goods, as samples or otherwise, and other supplies, materials, equipment or other tangible personal property. The State may, by written notice and in accordance with the terms and conditions of the Contract, direct the Contractor to remove any or all such Goods ("the "Rejected Goods") and any or all other supplies, materials, equipment or other tangible personal property (collectively, the "Contractor Property") from and out of State premises and any other location which the State manages, leases or controls. The Contractor shall remove the Rejected Goods and the Contractor Property in accordance with the terms and conditions of the written notice. Failure to remove the Rejected Goods or the Contractor Property in accordance with the terms and conditions of the written notice shall mean, for itself and all Contractor Parties and Proposer Parties, that:

- (1) they have voluntarily, intentionally, unconditionally, unequivocally and absolutely abandoned and left unclaimed the Rejected Goods and Contractor Property and relinquished all ownership, title, licenses, rights, possession and interest of, in and to (collectively, "Title") the Rejected Goods and Contractor Property with the specific and express intent of (A) terminating all of their Title to the Rejected Goods and Contractor Property, (B) vesting Title to the Rejected Goods and Contractor Property in the State of Connecticut and (C) not ever reclaiming Title or any future rights of any type in and to the Rejected Goods and Contractor Property;

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- (2) there is no ignorance, inadvertence or unawareness to mitigate against the intent to abandon the Rejected Goods or Contractor Property;
  - (3) they vest authority, without any further act required on their part or the State's part, in the Client Agency and the State to use or dispose of the Rejected Goods and Contractor Property, in the State's sole discretion, as if the Rejected Goods and Contractor Property were the State's own property and in accordance with law, without incurring any liability or obligation to the Contractor or any other party;
  - (4) if the State incurs any costs or expenses in connection with disposing of the Rejected Goods and Contractor Property, including, but not limited to, advertising, moving or storing the Rejected Goods and Contractor Property, auction and other activities, the State shall invoice the Contractor for all such cost and expenses and the Contractor shall reimburse the State no later than thirty (30) days after the date of invoice; and
  - (5) they do remise, release and forever discharge the State and its employees, departments, commissions, boards, bureaus, agencies, instrumentalities or political subdivisions and their respective successors, heirs, executors and assigns (collectively, the "State and Its Agents") of and from all Claims which they and their respective successors or assigns, jointly or severally, ever had, now have or will have against the State and Its Agents arising from the use or disposition of the Rejected Goods and Contractor Property.
- (b) The Contractor shall secure from each Contractor Party or Proposer Party, as appropriate, such document or instrument as necessary or appropriate as will vest in the Contractor plenary authority to bind the Contractor Parties and Proposer Parties to the full extent necessary or appropriate to give full effect to all of the terms and conditions of this section. The Contractor shall provide, no later than fifteen (15) days after receiving a request from the State, such information as the State may require to evidence, in the State's sole determination, compliance with this section.
6. Order and Delivery. The Contract shall bind the Contractor to furnish and deliver the Goods or Services in accordance with Exhibit A and at the prices set forth in Exhibit B. Subject to the sections in this Contract concerning Force Majeure, Termination, Cancellation Expiration and Open Market Purchases, the Contract shall bind the Client Agency to order the Goods or Services from the Contractor, and to pay for the accepted Goods or Services in accordance with Exhibit B.
  7. Contract Amendments. Except for extensions made in accordance with the section in this Contract concerning Term of Contract; Effective Date, no amendment to or modification or other alteration of the Contract shall be valid or binding upon the State unless made in writing, signed by both parties and, if applicable, approved by the Connecticut Attorney General.
  8. Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of DAS. DAS may void any purported assignment in violation of this section and declare the Contractor in breach of Contract. Any Cancellation by DAS for a breach is without prejudice to DAS's or the State's rights or possible Claims.
  9. Termination, Cancellation and Expiration.
    - (a) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may Terminate the Contract whenever DAS makes a written determination that such Termination is in the best interests of the State. DAS shall notify the Contractor in writing of Termination pursuant to this section, which notice shall specify the effective date of

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Termination and the extent to which the Contractor must complete Performance under the Contract prior to such date. The Contractor is not entitled to receive and the State is not obligated to tender to the Contractor any payments or reimbursements for anticipated or lost profits.

- (b) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Cancel the Contract in accordance with the provisions in the Breach section of this Contract.
- (c) DAS shall send the notice of Termination or Cancellation via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to DAS for purposes of correspondence, or by hand delivery. Upon receiving such notice from DAS, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Client Agency all Records. The Records are deemed to be the property of the Client Agency and the Contractor shall deliver them to the Client Agency no later than thirty (30) days after the Termination, Cancellation or Expiration of the Contract or fifteen (15) days after the Contractor receives a written request from DAS for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
- (d) Upon receipt of a written notice of Termination or Cancellation from DAS, the Contractor shall cease operations as directed by DAS in the notice, and take all actions that are necessary or appropriate, or that DAS may reasonably direct, for the protection and preservation of the Goods and any other property. Except for any work which DAS directs the Contractor to Perform in the notice prior to the effective date of Termination or Cancellation, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- (e) To the extent that the Client Agency has issued a purchase order prior to the notice of Termination and the Contractor has begun Performance against that purchase order in good faith, the Client Agency shall, within forty-five (45) days of having received an invoice from the Contractor for such Performance, pay or reimburse the Contractor for its Performance rendered and accepted by the Client Agency in accordance with Exhibit A. In addition, the Client Agency shall also pay or reimburse the Contractor for all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. Upon and as requested by the Client Agency or DAS and after consent of the Contractor's subcontractors, if any, and if their consent is required, the Contractor shall (1) assign to the Client Agency, or any replacement contractor which the Client Agency or DAS designates, all subcontracts, purchase orders and other commitments, (2) deliver to the Client Agency all Records and other information pertaining to its Performance, and (3) remove from State premises, whether leased or owned, all such equipment, waste material and rubbish related to its Performance, all as the Client Agency or DAS may request.
- (f) For breach or violation of any of the provisions in the section concerning Representations and Warranties, DAS may Cancel the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
- (g) Upon Termination, Cancellation or Expiration of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination, Cancellation or Expiration of the Contract. All representations, warranties, agreements and rights of the

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parties under the Contract shall survive such Termination, Cancellation or Expiration to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.

(h) Termination or Cancellation of the Contract pursuant to this section shall not be deemed to be a breach of contract by DAS.

10. Cost Modifications. The parties may agree to a reduction in the cost of the Contract at any time during which the Contract is in effect. Without intending to impose a limitation on the nature of the reduction, the reduction may be to hourly, staffing or unit costs, the total cost of the Contract or the reduction may take such other form as the State deems to be necessary or appropriate.

11. Breach. If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of such breach to the breaching party and afford the breaching party an opportunity to cure the breach within ten (10) days from the date that the breaching party receives such notice. Any other time provided for in the notice shall trump such ten (10) days. Such right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Contract Cancellation date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Cancellation date, no further action shall be required of any party to effect the Cancellation as of the stated date. If the notice does not set forth an effective Contract Cancellation date, then the non-breaching party may Cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written notice. If DAS believes that the Contractor has not performed according to the Contract, the Client Agency may withhold payment in whole or in part pending resolution of the Performance issue, provided that DAS notifies the Contractor in writing prior to the date that the payment would have been due in accordance with Exhibit B.

12. Waiver.

(a) No waiver of any breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity.

(b) A party's failure to insist on strict performance of any provision of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of Performance and shall not be deemed to be a waiver of any subsequent rights, remedies or breach.

13. Open Market Purchases. Except to the extent that the Contractor is performing within a right to cure period, failure of the Contractor to Perform within the time specified in the Contract, or failure to replace rejected or substandard Goods or fulfill unperformed Services when so requested and as the Contract provides or allows, constitutes a breach of the Contract and as a remedy for such breach, such failure shall constitute authority for DAS, if it deems it to be necessary or appropriate in its sole discretion, to Cancel the Contract and/or to purchase on the open market, Goods or Services to replace those which have been rejected, not delivered, or not performed. The Client Agency shall invoice the Contractor for all such purchases to the extent that they exceed the costs and expenses in Exhibit B and the Contractor shall pay the Client Agency's invoice immediately after receiving the invoice. If DAS does not Cancel the Contract, the Client Agency will deduct such open market purchases from the Contract quantities. However, if the Client Agency deems it to be in the best interest of the State, the

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Client Agency may accept and use the Goods or Services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Client Agency.

**14. Purchase Orders.**

- (a) The Contract itself is not an authorization for the Contractor to ship Goods or begin Performance in any way. The Contractor may begin Performance only after it has received a duly issued purchase order against the Contract for Performance.
- (b) The Client Agency shall issue a purchase order against the Contract directly to the Contractor and to no other party.
- (c) All purchase orders shall be in written or electronic form, bear the Contract number (if any) and comply with all other State and Client Agency requirements, particularly the Client Agency's requirements concerning procurement. Purchase orders issued in compliance with such requirements shall be deemed to be duly issued.
- (d) A Contractor making delivery without a duly issued purchase order in accordance with this section does so at the Contractor's own risk.
- (e) The Client Agency may, in its sole discretion, deliver to the Contractor any or all duly issued purchase orders via electronic means only, such that the Client Agency shall not have any additional obligation to deliver to the Contractor a "hard copy" of the purchase order or a copy bearing any hand-written signature or other "original" marking.

**15. Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance of the Contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a Certificate of Insurance to

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DAS, except that the Contractor shall not provide a copy to DAS if the Client Agency is the State Department of Transportation, prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the Certificate of Insurance to DAS. Upon request of the Client Agency, the Contractor shall provide a Certificate of Insurance to the Client Agency.

- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- (f) This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.

16. Forum and Choice of Law. The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

17. Contractor Guaranties. Contractor shall:

- (a) Perform fully under the Contract;
- (b) Guarantee the Goods or Services against defective material or workmanship and to repair any damage or marring occasioned in transit or, at the Client Agency's option, replace them;
- (c) Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the premises, Goods, the Contractor's work or that of Contractor Parties;
- (d) With respect to the provision of Services, pay for all permits, licenses and fees and give all required or appropriate notices;
- (e) Adhere to all Contractual provisions ensuring the confidentiality of Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law; and
- (f) Neither disclaim, exclude nor modify the implied warranties of fitness for a particular purpose or of merchantability.

18. Implied Warranties. DAS does not disclaim, exclude or modify the implied warranty of fitness for a particular purpose or the warranty of merchantability.

19. Goods, Standards and Appurtenances. Any Goods delivered must be standard new Goods, latest model, except as otherwise specifically stated in the Contract. Remanufactured, refurbished or reconditioned equipment may be accepted but only to the extent allowed under the Contract. Where the Contract does not specifically list or describe any part or nominal appurtenances of equipment for the Goods, it shall be understood that the Contractor shall

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deliver such parts and appurtenances as are usually provided with the manufacturer's stock model.

20. Delivery.

- (a) Delivery shall be made as ordered and in accordance with the Contract. Unless otherwise specified in the Contract, delivery shall be to a loading dock or receiving platform. The Contractor or Contractor's shipping designee shall be responsible for removal of Goods from the carrier and placement on the Client Agency loading dock or receiving platform. The receiving personnel of the Client Agency are not required to assist in this process. The decision of DAS as to reasonable compliance with delivery terms shall be final and binding. The burden of proof of proper receipt of the order shall rest with the Contractor.
- (b) In order for the time of delivery to be extended, the Client Agency must first approve a request for extension from the time specified in the Contract, such extension applying only to the particular item or shipment.
- (c) Goods shall be securely and properly packed for shipment, according to accepted standard commercial practice, without extra charge for packing cases, baling or sacks. The containers shall remain the property of the Client Agency unless otherwise stated in the Proposal.
- (d) All risk of loss and damage to the Goods transfers to the Client Agency upon Title vesting in the Client Agency.

21. Goods Inspection. The Client Agency shall determine the manner and prescribe the inspection of all Goods and the tests of all samples submitted to determine whether they comply with all of the specifications in the Contract. If any Goods fail in any way to meet the specifications in the Contract, the Client Agency may, in its sole discretion, either reject it and owe nothing or accept it and pay for it on an adjusted price basis, depending on the degree to which the Goods meet the specifications. Any decision pertaining to any such failure or rejection shall be final and binding.

22. Setoff. In addition to all other remedies that DAS may have, the State, in its sole discretion, may setoff (1) any costs or expenses that the State incurs resulting from the Contractor's unexcused nonperformance under the Contract and under any other agreement or arrangement that the Contractor has with the State and (2) any other amounts that are due or may become due from the State to the Contractor, against amounts otherwise due or that may become due to the Contractor under the Contract, or under any other agreement or arrangement that the Contractor has with the State. The State's right of setoff shall not be deemed to be the State's exclusive remedy for the Contractor's or Contractor Parties' breach of the Contract, all of which shall survive any setoffs by the State.

23. Force Majeure. The State and the Contractor shall not be excused from their obligation to Perform in accordance with the Contract except in the case of Force Majeure events and as otherwise provided for in the Contract. In the case of any such exception, the nonperforming party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance.

24. Advertising. The Contractor shall not refer to sales to the State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without DAS's prior written approval.

25. Americans With Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the term of the Contract. DAS may Cancel the Contract if the Contractor fails to comply with the Act.

26. Representations and Warranties. The Contractor, and the Proposer, as appropriate, represent and warrant to DAS for itself, Contractor Parties and Proposer Parties, as appropriate, that:

- (a) if they are entities, they are duly and validly existing under the laws of their respective states of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, they have taken all necessary action to authorize the execution, delivery and Performance of the Proposal and the Contract and have the power and authority to execute, deliver and Perform their obligations under the Contract;
- (b) they will comply with all applicable State and Federal laws and municipal ordinances in satisfying their obligations to the State under and pursuant to the Contract, including, but not limited to (1) Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics and (2) Title 4a concerning State purchasing, including, but not limited to 22a-194a concerning the use of polystyrene foam;
- (c) the execution, delivery and Performance of the Contract will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (1) any provision of law; (2) any order of any court or the State; or (3) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- (d) they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- (e) as applicable, they have not, within the three years preceding the Contract, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would Perform under the Contract, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a transaction or contract with any governmental entity. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (f) they are not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
- (g) they have not within the three years preceding the Contract had one or more contracts with any governmental entity Cancelled;
- (h) they have not employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure the Contract and that they have not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of the Contract or any assignments made in accordance with the terms of the Contract;
- (i) to the best of their knowledge, there are no Claims involving the Proposer, Proposer Parties, Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract;
- (j) they shall disclose, to the best of their knowledge, to DAS in writing any Claims involving them that might reasonably be expected to materially adversely affect their businesses,

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operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. For purposes of the Contractor's obligation to disclose any Claims to DAS, the ten (10) Days in the section of this Contract concerning Disclosure of Contractor Parties Litigation shall run consecutively with the ten (10) Days provided for in this representation and warranty;

- (k) their participation in the Request for Proposals process is not a conflict of interest or a breach of ethics under the provisions of Title 1, Chapter 10 of the Connecticut General Statutes concerning the State's Code of Ethics;
- (l) the Proposal was not made in connection or concert with any other person, entity or Proposer, including any affiliate (as defined in the Tangible Personal Property section of this Contract) of the Proposer, submitting a Proposal for the same Goods or Services, and is in all respects fair and without collusion or fraud;
- (m) they are able to Perform under the Contract using their own resources or the resources of a party who is not a Proposer;
- (n) the Contractor shall obtain in a written contract all of the representations and warranties in this section from any Contractor Parties and to require that provision to be included in any contracts and purchase orders with Contractor Parties;
- (o) they have paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- (p) they have a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- (q) they owe no unemployment compensation contributions;
- (r) they are not delinquent in the payment of any taxes owed, or, that they have filed a sales tax security bond, and they have, if and as applicable, filed for motor carrier road tax stickers and have paid all outstanding road taxes;
- (s) all of their vehicles have current registrations and, unless such vehicles are no longer in service, they shall not allow any such registrations to lapse;
- (t) each Contractor Party has vested in the Contractor plenary authority to bind the Contractor Parties and Proposer Parties to the full extent necessary or appropriate to ensure full compliance with and Performance in accordance with all of the terms and conditions of the Contract and that all appropriate parties shall also provide to DAS, no later than fifteen (15) days after receiving a request from DAS, such information as DAS may require to evidence, in DAS's sole determination, compliance with this section;
- (u) except to the extent modified or abrogated in the Contract, all Title shall pass to the Client Agency upon complete installation, testing and acceptance of the Goods or Services and payment by the Client Agency;
- (v) if either party Terminates or Cancels the Contract, for any reason, they shall relinquish to the Client Agency all Title to the Goods delivered, accepted and paid for (except to the extent any invoiced amount is disputed) by the Client Agency;
- (w) with regard to third party products provided with the Goods, they shall transfer all licenses which they are permitted to transfer in accordance with the applicable third party license;

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- (x) they shall not copyright, register, distribute or claim any rights in or to the Goods after the effective date of the Contract without DAS's prior written consent;
- (y) they either own or have the authority to use all Title of and to the Goods, and that such Title is not the subject of any encumbrances, liens or claims of ownership by any third party;
- (z) the Goods do not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (aa) the Client Agency's use of any Goods shall not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (bb) if they procure any Goods, they shall sub-license such Goods and that the Client Agency shall be afforded the full benefits of any manufacturer or subcontractor licenses for the use of the Goods; and
- (cc) they shall assign or otherwise transfer to the Client Agency, or afford the Client Agency the full benefits of any manufacturer's warranty for the Goods, to the extent that such warranties are assignable or otherwise transferable to the Client Agency.

27. Representations and Warranties Concerning Motor Vehicles. If in the course of Performance or in any other way related to the Contract the Contractor at any time uses or operates "motor vehicles," as that term is defined by Conn. Gen. Stat. §14-1(53) (including, but not limited to such services as snow plowing, sanding, hauling or delivery of materials, freight or merchandise, or the transportation of passengers), the Contractor, and the Proposer, as appropriate, represent and warrant for itself, the Contractor Parties and Proposer Parties, as appropriate, that:

- (a) It is the owner of record or lessee of record of each such motor vehicle used in the Performance of the Contract, and each such motor vehicle is duly registered with the Connecticut Department of Motor Vehicles ("ConnDMV") in accordance with the provisions of Chapter 246 of the Connecticut General Statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV, for any reason or cause. If such motor vehicle is not registered with ConnDMV, then it shall be duly registered with another state or commonwealth in accordance with such other state's or commonwealth's applicable statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by such other state or commonwealth for any reason or cause.
- (b) Each such motor vehicle shall be fully insured in accordance with the provisions of Sections 14-12b, 14-112 and 38a-371 of the Connecticut General Statutes, as amended, in the amounts required by the said sections or in such higher amounts as have been specified by ConnDMV as a condition for the award of the Contract, or in accordance with all substantially similar provisions imposed by the law of the jurisdiction where the motor vehicle is registered.
- (c) Each Contractor Party who uses or operates a motor vehicle at any time in the Performance of the Contract shall have and maintain a motor vehicle operator's license or commercial driver's license of the appropriate class for the motor vehicle being used or operated. Each such license shall bear the endorsement or endorsements required by the provisions of Section 14-36a of the Connecticut General Statutes, as amended, to operate such motor vehicle, or required by substantially similar provisions imposed by the law of another jurisdiction in which the operator is licensed to operate such motor vehicle. The license shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV or such other jurisdiction for any reason or cause.

- (d) Each motor vehicle shall be in full compliance with all of the terms and conditions of all provisions of the Connecticut General Statutes and regulations, or those of the jurisdiction where the motor vehicle is registered, pertaining to the mechanical condition, equipment, marking and operation of motor vehicles of such type, class and weight, including, but not limited to, requirements for motor vehicles having a gross vehicle weight rating of 18,000 pounds or more or motor vehicles otherwise described by the provisions of Conn. Gen. Stat. § 14-163c(a) and all applicable provisions of the Federal Motor Carrier Safety Regulations, as set forth in Title 49, Parts 382 to 399, inclusive, of the Code of Federal Regulations.
28. Disclosure of Contractor Parties Litigation. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to Perform fully under the Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
29. Entirety of Contract. The Contract is the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the parties, whether written or oral. The Contract has been entered into after full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in the Contract.
30. Exhibits. All exhibits referred to in and attached to this Contract are incorporated in this Contract by such reference and shall be deemed to be a part of it as if they had been fully set forth in it.
31. Executive Orders. The Contract is subject to the provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms, Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17<sup>th</sup>, 2006, concerning procurement of cleaning products and services, Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency or DAS shall provide a copy of these orders to the Contractor.
32. Non-discrimination. References in this section to "contract" shall mean this Contract and references to "contractor" shall mean the Contractor.
- (a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:
- (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation,

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- mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved;
- (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
  - (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f;
  - (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.
- (b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
  - (c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons:
    - (1) Who are active in the daily affairs of the enterprise,
    - (2) who have the power to direct the management and policies of the enterprise and
    - (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
  - (d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
  - (e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
  - (f) The contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and

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such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

- (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
- (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
- (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56;
- (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(i) For the purposes of this entire Non-Discrimination section, "contract" includes any extension or modification of the contract, "contractor" includes any successors or assigns of the contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "contract" does not include a contract where each contractor is

1. a political subdivision of the state, including, but not limited to, a municipality,

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2. a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120,
  3. any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267,
  4. the federal government,
  5. a foreign government, or
  6. an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).
33. Tangible Personal Property. The Contractor on its behalf and on behalf of its Affiliates, as defined below, shall comply with the provisions of Conn. Gen. Stat. §12-411b, as follows:
- (a) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;
  - (b) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;
  - (c) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
  - (d) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
  - (e) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.

For purposes of this section of the Contract, the word "Affiliate" means any person, as defined in section 12-1 of the general statutes, that controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word "voting security" means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. "Voting security" includes a general partnership interest.

The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State's contracting authority, such information as the State may require to ensure, in the State's sole determination, compliance with the provisions of the Act.

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34. **Whistleblowing.** This Agreement is subject to the provisions of §4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.
35. **Notice.** All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Contract (for the purpose of this section collectively called "Notices") shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested or placed with a recognized, overnight express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to DAS:

State of Connecticut, Department of Administrative Services  
165 Capitol Ave, 5<sup>th</sup> Floor South  
Hartford, CT 06106-1659  
Attention: Tony Deluca

If to the Contractor:

COMPANY NAME: Sonepar Distributors of New England dba Northeast Electrical Distributors

NAME: \_\_\_\_\_

ADDRESS Line 1: 560 Oak Street

ADDRESS Line 2: \_\_\_\_\_

City: Brockton State: MA Zip: 02301

Attention: Company: Donald Block

Signatory Name: Donald Block Title: President

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36. Insurance. Before commencing Performance, the Contractor shall obtain and maintain at its own cost and expense for the duration of the Contract, the following insurance as described in (a) through (h) below. Contractor shall assume any and all deductibles in the described insurance policies. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

(a) Reserved

(b) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the occurrence limit.

(c) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.

(d) Workers' Compensation and Employers Liability: Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

(e) Reserved

(f) Umbrella Liability: Excess/umbrella liability insurance may be included to meet minimum requirements. Umbrella coverage must indicate the existing underlying insurance coverage.

(g) Claims Made: Not acceptable with the exception of Professional Liability when specified.

(h) Reserved

37. Headings. The headings given to the sections in the Contract are inserted only for convenience and are in no way to be construed as part of the Contract or as a limitation of the scope of the particular section to which the heading refers.

38. Number and Gender. Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.

39. Parties. To the extent that any Contractor Party or Proposer Party is to participate or Perform in any way, directly or indirectly in connection with the Proposal or the Contract, any reference in the Request for Proposals and the Contract to "Contractor" or "Proposer" shall also be deemed to include "Contractor Parties" or "Proposer Parties," respectively, as if such reference had originally specifically included "Contractor Parties" or "Proposer Parties," since it is the parties' intent for the terms "Contractor Parties" and "Proposer Parties" to be vested with the same respective rights and obligations as the terms "Contractor" and "Proposer."

40. Contractor Changes. The Contractor shall notify DAS in writing no later than ten (10) Days from the effective date of any change in:

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- a) its certificate of incorporation or other organizational document;
- b) more than a controlling interest in the ownership of the Contractor; or
- c) the individual(s) in charge of the Performance.

This change shall not relieve the Contractor of any responsibility for the accuracy and completeness of the Performance. DAS, after receiving written notice by the Contractor of any such change, may require such agreements, releases and other instruments evidencing, to DAS's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that provision has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to DAS in accordance with the terms of DAS's written request. DAS may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to Perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to Perform under the Contract until Performance is fully completed.

- 41. **Further Assurances.** The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provisions of this Contract and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Contract, in order to give full effect to the Contract and to carry out the intent of the Contract.
- 42. **Audit and Inspection of Records.** The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents. Requests for any audit or inspection shall be in writing, at least ten (10) Days prior to the requested date. All audits and inspections shall be at the State's expense. The State may request an audit or inspection at any time during the Contract term and for three (3) years from Termination, Cancellation or Expiration of the Contract. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- 43. **Background Checks.** The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Public Safety Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.
- 44. **Continued Performance.** The Contractor and Contractor Parties shall continue to Perform their obligations under the Contract while any dispute concerning the Contract is being resolved.
- 45. **Working and Labor Synergies.** The Contractor shall be responsible for maintaining a tranquil working relationship between the Contractor work force, the Contractor Parties and their work force, State employees, and any other contractors present at the work site. The Contractor shall quickly resolve all labor disputes which result from the Contractor's or Contractor Parties' presence at the work site, or other action under their control. Labor disputes shall not be deemed to be sufficient cause to allow the Contractor to make any claim for additional compensation for cost, expenses or any other loss or damage, nor shall those

disputes be deemed to be sufficient reason to relieve the Contractor from any of its obligations under the Contract.

46. Contractor Responsibility.

- (a) The Contractor shall be responsible for the entire Performance under the Contract regardless of whether the Contractor itself performs. The Contractor shall be the sole point of contact concerning the management of the Contract, including Performance and payment issues. The Contractor is solely and completely responsible for adherence by the Contractor Parties to all applicable provisions of the Contract.
- (b) The Contractor shall exercise all reasonable care to avoid damage to the State's property or to property being made ready for the State's use, and to all property adjacent to any work site. The Contractor shall promptly report any damage, regardless of cause, to the State.

47. Severability. If any term or provision of the Contract or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the Contract or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the Contract shall be valid and enforced to the fullest extent possible by law.

48. Confidential Information. The State will afford due regard to the Proposer's and Contractor's request for the protection of proprietary or confidential information which the State receives. However, all materials associated with the Proposal and the Contract are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the Proposer or Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the vendor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Proposer or Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, especially including the Proposal, the Records and the specifications, conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Proposer or Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as CONFIDENTIAL, DAS will endeavor to keep said information confidential to the extent permitted by law. DAS, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Contractor shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall DAS or the State have any liability for the disclosure of any documents or information in its possession which the State or DAS believes are required to be disclosed pursuant to the FOIA or other requirements of law.

49. Interpretation. The Contract contains numerous references to statutes and regulations. For purposes of interpretation, conflict resolution and otherwise, the content of those statutes and regulations shall govern over the content of the reference in the Contract to those statutes and regulations.

50. Cross-Default.

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- (a) If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under the Contract, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to perform under any or all other agreements or arrangements (“Other Agreements”) that the Contractor or Contractor Parties have with DAS. Accordingly, DAS may then exercise at its sole option any and all of its rights or remedies provided for in the Contract or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS, as if the Contractor or Contractor Parties had suffered a breach, default or failure to perform under the Other Agreements.
  - (b) If the Contractor or Contractor Parties breach, default or in any way fail to perform satisfactorily under any or all Other Agreements with DAS or the State, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to Perform under the Contract. Accordingly, the State may then exercise at its sole option any and all of its rights or remedies provided for in the Other Agreements or the Contract, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS or the State, as if the Contractor or Contractor Parties had suffered a breach, default or failure to Perform under the Contract.
51. Disclosure of Records. The Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this section, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.
52. Summary of State Ethics Laws. Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.
53. Sovereign Immunity. The parties acknowledge and agree that nothing in the Request for Proposals or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
54. Time of the Essence. Time is of the essence with respect to all provisions of this Agreement that specify a time for performance; provided, however, that this provision shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
55. Reserved
56. Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign

Contribution and Solicitation Ban. With regard to a State contract as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this submission in response to the State's solicitation expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising prospective state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See Exhibit C, SEEC Form 11.

57. Health Care Portability and Accountability Act of 1996 (“HIPAA”).

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (hereinafter “Department”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions.
  - (1) “Breach” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1)).’
  - (2) “Business Associate” shall mean the Contractor.
  - (3) “Covered Entity” shall mean the Department of the State of Connecticut named on page 1 of this Contract.
  - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
  - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).

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- (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
- (7) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
- (8) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- (9) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.
- (10) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- (11) “More stringent” shall have the same meaning as the term “more stringent” in 45 C.F.R. § 160.202.
- (12) “This Section of the Contract” refers to the HIPAA Provisions stated herein, in their entirety.
- (13) “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.
- (14) “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
- (15) “Unsecured protected health information” shall have the same meaning as the term as defined in § 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).

(h) Obligations and Activities of Business Associates.

- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.

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- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees that at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not directly or indirectly receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly

authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act,(42 U.S.C. § 17935(d)(2)) and in any accompanying regulations

(16) Obligations in the Event of a Breach

- (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. § 17932(b) and the provisions of this section of the contract.
- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. § 17932(g)) . A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
  - 1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
  - 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
  - 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
  - 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
  - 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and contact information for said official.
- (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.

- (E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(i) Permitted Uses and Disclosure by Business Associate.

- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- (2) Specific Use and Disclosure Provisions.
  - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
  - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
  - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
  - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
  - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
  - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination.

- (A) Except as provided in (1)(2) above, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

- (3) **Survival.** The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) **Effect on Contract.** Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) **Construction.** This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

58. Encryption of Data.

- (a) Contractor and Contractor Parties, at its own expense, shall keep and maintain in an encrypted state any and all electronically stored data now or hereafter in its possession or control located on non-state owned or managed devices that the State, in accordance with its existing state policies classifies as confidential or restricted. The method of encryption shall be compliant with the State of Connecticut Enterprise Wide Technical Architecture (EWTA). This shall be a continuing obligation for compliance with the EWTA standard as it may be amended or supplemented from time to time.
- (b) In the event of a breach of security or loss of State data, the Contractor and Contractor Parties shall notify the Client Agency which owns the data, DAS, the Connecticut Department of Information Technology and the Connecticut Office of the Attorney General as soon as practical but no later than 24 hours after the discovery or reason to believe such breach or loss that such data has been compromised through breach or loss.

**Contract # 10PSX0090**

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IN WITNESS WHEREOF, the parties have executed this Contract by their duly authorized representatives with full knowledge of and agreement with its terms and conditions.

Sonepar Distributors of New England

dba

Northeast Electrical Distributors

STATE OF CONNECTICUT  
Department of Administrative Services

By: \_\_\_\_\_

By: \_\_\_\_\_

Donald Block

Print or Type Name

Carol Wilson

Print or Type Name

Title: President

Title: Director, Procurement Services

Date: 1/20/2011

Date: 1/11/2011

**EXHIBIT A**

**DESCRIPTION OF GOODS AND SERVICES**

This purpose of this contract is to provide electrical supplies for the State, political subdivisions and qualified non-profits.

**General Requirements:**

- Contractor must maintain the capability to provide the required products, designated customer service representatives (csr), outside sales and technical representatives, all of which have comprehensive knowledge of the proposed products.
- Maintain the levels of manufacturers' and product as indicated in "Exhibit B"
- Provide technical information/knowledge regarding those products
- Maintain the capability to recommend, consult and demonstrate the products and supplies and provide examples.
- Maintain 24/7 capability for emergencies – person to person answering service (no voice mail or answering machines) for off hours/days.
- Maintain named (dedicated) customer service representative(s) to manage all account requirements and update as required.

**Product Requirements:**

- All items shall be new, specified for the U.S. market, unused, of the latest model or design and of recent manufacture.
- Items shall be delivered in factory packaging with any additional packaging required to ensure delivery free of damage. All manuals and warranty information shall be included.
- Materials shall conform to all of the latest codes, regulations, and meet all requirements for the uses for which the item(s) is (are) intended.
- Refurbished products and product substitutions are not allowed without prior approval by the Agency.
- Energy Star Compliance: where appropriate for all products Contractor must inform Agencies of options, identifying which products meet the required standards and provide technical assistance in product selection.

**Contract # 10PSX0090**

RFP Contract - Exhibit A - Description of Goods and Services-NEW 1/09

- All products are F.O.B. delivered including packing per destination with no additional charges.

**Ordering Procedure/Order Fulfillment/Delivery Requirements:**

Emergency orders for stocked items will be given priority status and delivered the same or next business day.

Standard products shall be delivered within 24-48 hours. Non-standard or custom product orders shall be delivered within ten (10) business days; if delivery is not possible for reasons acceptable to the agency, the Contractor shall provide a mutually acceptable, firm delivery date.

Agencies may return unopened or unused items within thirty (30) days of receipt for full credit. There will be no re-stocking/cancellation fees.

**Pricing:**

Pricing is based on percentage discounts from the manufacturers COLUMN # 3 prices as found in the Trade Service TRA-SER® SX Price Directory Software, according to updates, for all but specialized, custom or non-standard items. The discounts offered in the proposal will remain firm throughout the term of the contract.

The State reserves the right to renegotiate the discounts if it is in the best interests of the State.

Contractor shall maintain a subscription to the Trade Service TRA-SER® SX Price Directory Software updates, throughout the life of the contract. For more information on Trade Service TRA-SER® SX Price Directory Software, contact:

Trade Service Company  
Karen Hart, Sales Manager, Government and Education Markets  
800-854-1527 ex. 1533 or 352-683-6115  
Email: [karen\\_hart@tradeservice.com](mailto:karen_hart@tradeservice.com)

Trade Service TRA-SER® SX Price Directory Software shall be used to establish the manufacturer's published prices. The Trade Service TRA-SER® SX Price Directory Software aggregates and regularly updates pricing information for the products incorporated into this contract.

All costs associated with the procurement and use of Trade Service software is the responsibility of the Contractor.

The Contractor shall have the Trade Service program operational prior to the contract start date.

## Contract # **10PSX0090**

RFP Contract - Exhibit A - Description of Goods and Services-NEW 1/09

In the event that Trade Service issues improved software package prior to or during the term of this contract, the Contractor will begin using the upgraded version within thirty (30) days of its release.

On the date of any order, the pricing for said order will be correlated to the most current update of the TRA-SER® SX Price Directory Software, with the exception of those items listed in Exhibit B – Market Basket which will be fixed for six (6) months and three (3) months for Wire.

The State reserves the right to acquire manufacturers' pricing information from sources other than the TRA-SER® SX Price Directory Software to be used as the basis for establishing contract pricing.

The Contractor shall provide price verification to contract users upon request. Price verification will include manufacturer name, catalog number/and or UPC number, Manufacturers List Price and contract price.

The offered discount structure shall remain firm for the term of the contract. Price changes from the manufacturer as listed in the TRA-SER® SX Price Directory Software will be passed on. There will be no allowance for price increases on orders already placed with the contractor.

### **Reporting and Records Requirements:**

The Contractor will be required to provide to DAS various reports which include but are not limited to:

- Spend - variations of
- Users - all
- Items purchased – all
- Level III for credit card purchases
- Any other reports which DAS deems necessary to determine the success of the contract and which are within the realm of the Contractor's data capture/reporting capabilities as determined by DAS.

### **Mandatory Extension to State Entities:**

Contractor is required to offer and extend this contract (including pricing, terms and conditions) to Political Sub-Divisions of the State (Towns and Municipalities), Schools, and Not-For-Profit Organizations.

When a Political Sub-Division, School, and/or Not-For-Profit Organization utilize this contract all references to the "State" are hereby replaced with the Name of the Using Sub-Division, School, or the name of the Not-For-Profit Organization.

**P-Card (Purchasing Credit Card):**

The State of Connecticut uses a MasterCard purchasing card for order placement and payment in many instances. Contractors who accept credit cards should anticipate that some or all orders issued as a result of this request for proposal may be paid by using the purchasing card. The Contractor shall be aware that he/she is responsible for the credit card user handling fee associated with credit card purchases. Contractors should only charge to the State's MasterCard when the goods are delivered (physical receipt of goods, at store), or are shipped.

Questions regarding the State of Connecticut MasterCard Program should be directed to Ms. Kerry DiMatteo, Procurement Card Program Administrator at (860) 713-5072.

**E-Commerce (Electronic Commerce):**

The State of Connecticut utilizes an internet-based E-Procurement ordering system (PeopleSoft/Oracle), known as Core-CT. Contractor is required to accept purchase orders from the State of Connecticut through this system.

Contractors shall provide the State of Connecticut with functional data files that include specific formats for product and pricing information. These functional data files will then be loaded into a catalog on this system for ordering purposes.

Detailed information on E-Commerce/Data File Requirements and Core-CT is available at

[http://www.das.state.ct.us/Purchase/New\\_purchHome/busopp\\_template.asp?F\\_ID=23](http://www.das.state.ct.us/Purchase/New_purchHome/busopp_template.asp?F_ID=23)

**Initial Notification**

- Contractors will be notified that a functional data file is needed.
- Contractors shall provide functional data files within ten (10) business days from the date of notification.
- Failure to provide functional data files within the time allotted will constitute a breach of contract.

**Data Updates**

- During the term of the contract, data file updates (price changes, product changes) must be provided in the format specified.
- Frequency of data file updates is outlined in the pricing specifications section of this document. Additional information on data updates is available in the supplier kit found at:  
[http://www.das.state.ct.us/Purchase/New\\_purchHome/busopp\\_template.asp?F\\_ID=23](http://www.das.state.ct.us/Purchase/New_purchHome/busopp_template.asp?F_ID=23)
- Existing pricing/product information will remain in effect until a functional data update is received and a contract supplement is issued.

	Contractor Name:	Northeast Electrical Distributors			<b>10PSX0090</b>
<b>Item</b>	<b>Manufacturer</b>	<b>Manufacturer Catalog Number</b>	<b>Manufacturer Product Description</b>	<b>UOM</b>	<b>Market Basket Price</b>
Market Basket Pricing for "Electrical Items" will be fixed for six (6) months and three (3) months for "Wire" initially and for each subsequent interval. Increases shall be allowed at the end of each periodic interval according to the pricing in "Trade Services" column three at that time.					
<b>Market Basket Electrical Items</b>					
1	OSRAM	LED50RETROFIT/7	SYL LED50RETROFIT/750/T5M/D6	ea	\$ 495.00
2	BUSS	FNQ8	BUSS FNQ-8 500V MIDGET TD FUSE	ea	\$ 4.99
3	LITHONIA	TAF	LITH TAF 232MVOLT1/4 GEB10IS HEA	ea	\$ 125.00
4	OSRAM	LU250ECO	SYL LU250/ECO (67578)CLR E18 MOG HP	ea	\$ 7.70
5	ENERGIZER	EN91	EV-REDY EN91 1.5V AA INDUST BATTERY	ea	\$ 0.24
6	OSRAM	FO32741/ECO (21999)	SYL FO32/741/ECO (21999) RS OCTRON	ea	\$ 0.92
7	BUSS	HEB-AW-RLC-A	BUSS HEB-AW-RLC-A FUSEHOLDER	ea	\$ 16.15
8	ENERGIZER	EN92	EV-REDY EN92 AAA INDUST BATTERY	ea	\$ 0.24
9	ADVANCE	ICN2P32N35I	ADV ICN2P32N35I 2 - F32T8 UNIV BALLAST	ea	\$ 9.35
10	OSRAM	LU200ECO	SYL LU200/ECO (67576) CLR E18 MOG HPS	ea	\$ 7.90
11	OSRAM	LED40POST/757/T	SYL LED40POST/757/T5S/D11/IG RETRO FIT	ea	\$ 480.00
12	ENERGIZER	EN22	EV-REDY EN22 9V INDUST BATTERY	ea	\$ 0.84
13	ADVANCE	ICN4P43N35I	ADV ICN4P32N35I 4 - F32T8 UNIV BALLAST	ea	\$ 11.50
14	FEDSIGNL	50GC-120BG	FEDSIG 50GC-120BG 4-IN SQ SPEAKER	ea	\$ 184.00
16	ENERGIZER	EN95	EV-REDY EN95 1.5V D INDUST BATTERY	ea	\$ 0.65
17	BUSS	HEB-AW-RYC	BUSS HEB-AW-RYC FUSEHOLDER	ea	\$ 29.25
18	OSRAM	FB032/741/6/ECO	SYL FB032/741/6/ECO (22052) BNT OCT	ea	\$ 2.85
19	GELTG	M2ARP1A2GMN21	GEL M2AR15P1A2GMN21 150W HPS W/PE	ea	\$ 149.00
20	INTERMAT	K4521	INT-MAT K4521 120V PHOTOCONTROL	ea	\$ 8.57
21	GEEDC	CR309C123	GEA CR309C123 3P 208 REV STR 1 NEMA	ea	\$ 250.00
22	COOPERLT	FAS-X-232-UNV80/96-LEOCH8-CPH	FAIL FAS-X-232-UNV80/96-LEOCH8-CPH	ea	\$ 260.00
23	ADVANCE	ICN3P32N35I	ADV ICN3P32N35I 3 -F32T8 UNIV BALLAST	ea	\$ 10.40
24	ENERGIZER	EN93	EV-REDY EN93 1.5V C INDUST BATTERY	ea	\$ 0.48
25	GELTG	MDRL40S1A21RMS3	GEL MDRL40S1A21RMS31 (COOPER OVF40)	ea	\$ 225.00
26	KIDDE	i12040	KID i12040 21006378 120V AC WITH 9V	ea	\$ 7.69
27	OSRAM	LU400/ECO	SYL LU400/ECO (67533) CLR E18MOG HPS	ea	\$ 7.79
28	OSRAM	LU100NMULT-KIT	SYL LU100/MULT-KIT (47316) MAG HID	ea	\$ 27.00
29	PASS	1595-I	P&S 1595-I GRCI RECEP 15A 125V 20A	ea	\$ 6.60
30	GENERAC	5523 (current model # 5885)	GENERAC 5523 17KW GT990 (3500 RPM)	ea	\$ 2,967.75

	Contractor Name:	Northeast Electrical Distributors			<b>10PSX0090</b>
Item	Manufacturer	Manufacturer Catalog Number	Manufacturer Product Description	UOM	Market Basket Price
31	EMEL	ELXN400R	EMEL ELXN400R SELF POWERED LED EXIT	ea	\$ 10.50
32	LITHONIA	2PM3NGB2U3169LD	LITH 2PM3NGB2U3169LDMVOLTGEB10IS FL	ea	\$ 53.00
33	EMEL	EC2	EMEL EC2 6V 120/277V W/2 ADJ HEADS	ea	\$ 31.60
34	OSRAM	F34CW/SS/ECO	SYL F34CW/SS/ECO	ea	\$ 0.70
35	GENCBLE	04457.60.05	GENE 04457.60.05 16/3 SJT 50FT METAL	ea	\$ 21.90
37	3M	33+ 3/4X66 SUPER	3M 33+SUPER-3/4X66FT VINYL TAPE	ea	\$ 3.20
38	BUSS	KTK10	BUSS KTK-10 600V MIDGET FUSE	ea	\$ 5.15
39	OSRAM	QHE2X59T8/UNV	SYQ QHE-2X59T8/UNIV-ISN-SC (49859) 2	ea	\$ 32.45
40	PASS	1595-I	P&S 1595-I GRCI RECEP 15A 125V 20A	ea	\$ 6.60
41	EMEL	ELXN400R2SQ	EMEL ELXN400R2SQ EXIT SIGN W/LAMP H	ea	\$ 34.25
42	EMTCOND	034E	EMT 034E 3/4IN EMT CONDUIT 10FT	ea	\$ 3.00
43	OSRAM	F017/741/ECO	SYL FO17/741/ECO (21770) OCT FLUOR	ea	\$ 1.20
44	PROCURE	AG2	AGE SD DRUM SWITCH	ea	\$ 166.00
45	HOFFMAN	E6PB	HOFF E6PB 6H OT PB ENCL	ea	\$ 71.00
46	OSRAM	FO32735/ECO (21998)	SYL FO32/735/ECO (21998) RS OCTRON	ea	\$ 0.92
47	BUSS	HEB-AW	BUSS HEB-AW TRON INLINE FUSE HOLDER	ea	\$ 14.75
48	OSRAM	FP54/841/HO/ECO	SYL FP54/841/HO/ECO (20906) FLOUR L	ea	\$ 2.75
49	PASS	2091-I (current model 2095-I)	P&S 2095-I GFCI RECEP 20A 125V 20A	ea	\$ 7.30
50	OSRAM	M1000/MULTI-I/D	SYL M1000/MULTI-I/D (47207) MLT VOL	ea	\$ 129.95
<b>Market Basket: Wire</b>					
1	THHNCU	WIC THHN 600MC	WIC. THHN 600MCM STR BLK MR	FT	\$ 9.95
2	THHNCU	WIC THHN 3/0S	WIC. THHN 3/O STR BLK MR	FT	\$ 2.55
3	THHNCU	WIC THHN 2 STR	WIC. THHN 2 STR BLK MR	FT	\$ 1.07
4	THHNCU	WIC THHN 1/0S	WIC. THHN 1/O STR BLK MR	FT	\$ 1.65
5	THHNCU	WIC THHN 1 STR	WIC. THHN 1 STR BLK MR	FT	\$ 1.36
6	ROMEX	WIC ROMEX 14/2	WIC ROMEX 14/2 W/GRD 250C	FT	\$ 0.20
7	ROMEX	WIC ROMEX 12/2	WIC ROMEX 12/2 W/GRD 250C	FT	\$ 0.31

## Manufacturer Discount

Contractor Name: Manufacturer / Product Line	Northeast Electrical Distributors Percentage Off Trade Services Column #3
General Discount for all lines not listed below	20%
3M Connectors--TS#5400	30%
3M Electrical Tapes--TS#5400	30%
3M	30%
Advance Ballasts--TS#1087	79%
Advance	79%
All Pro Lighting products	
Arlington products--TS#1899	47%
Arlington products	47%
B-Line Strut--TS#2071	35%
B-Line	35%
Briscon Products--TS#0227	25%
Briscon Products	25%
Burndy Products--TS#1810	38%
Burndy Products	38%
Bussman Products--TS#1712	64%
Bussman Products	64%
Caddy Products	25%
Crouse Hinds Products--TS#4564	52%
Crouse Hinds Products	52%
Cutler Hammer--TS#6676	26%
Cutler Hammer	26%
Dual Lite--TS#2520	25%
Dual Lite	25%
Edwards-Electrical Supplies--TS#3017	30%
Edwards-Electrical Supplies	30%
Encore Wire--TS#0100	61%
Enertron, Lighting Products	
Firex Maple Chase--TS#0967	30%
Firex Maple Chase	30%
Fluorolite Lenses	
Fluke Tools, Test Equipment--TS#9596	15%
Fluke Tools, Test Equipment	15%
GE Lamps all others	
GE Lamps Fluorescent	
Gould Fuses--TS#2001	55%
Gould	55%
Greenlee-Factory Products--TS#3310	33%
Greenlee Factory Products	33%
Greenlee -Tools (P.I.E)--TS#9328	37%
Greenlee Tools	37%
Halco Ballasts	
Halco Lamps	
Halo products--TS#6624	40%

## Manufacturer Discount

Contractor Name: Manufacturer / Product Line	Northeast Electrical Distributors Percentage Off Trade Services Column #3
Halo Lighting--TS#6624	40%
Halo	40%
Hubbell Ground Fault Devices--TS#3585	50%
Hubbell Lighting Exterior--TS#5988	40%
Hubbell Wall Plates--TS#3778	56%
Hubbell Wiring Devices--TS#3585	50%
Hubbell	50%
Ideal -Tape Insulating Material Heat Shrink--TS#3250	25%
Ideal - Terminals--TS#1789	49%
Ideal Testers & Instruments--TS#3250	25%
Ideal Tools--TS#3250	30%
Ideal Connectors--TS#1789	37%
Ideal	25%
IlSCO Lugs--TS#3669	55%
Intermatic - Photo Controls--TS#8275	40%
Intermatic Products--TS#8275	28%
Intermatic	28%
Jasco Batteries	
Klein Tools--TS#2644	40%
Klein Tools	40%
Lenox Products--TS#2472	45%
Lenox Tools--TS#2472	45%
Lenox	45%
Leviton Decora Devices	
Leviton Products	
Leviton Twist Lock Devices	
Leviton Wall Plates	
Leviton SW receipts,plugs Conn-Comm	
Lithonia Fluorescent Fixtures--TS#8423	57%
Lithonia	57%
Little Fuse (Fuses)--TS#9458	50%
Little	50%
Lumark Lighting--TS#6624	22%
Lumark Lighting	22%
Lutron Ballast--TS#7557	30%
Lutron Dimmers--TS#7557	30%
Lutron	30%
Nutone Fans--TS#6715	51%
Nutone Products--TS#6715	51%
Nutone	51%
Panduit Raceway Wireways Strut Cable Tray--TS#8498	15%
Panduit	15%
Paralux Lighting--TS#8458	25%
Paralux	25%

## Manufacturer Discount

Contractor Name: Manufacturer / Product Line	Northeast Electrical Distributors Percentage Off Trade Services Column #3
Pass & Seymour Products--TS#5007	65%
Pass & Seymour	65%
Phillips Lamps all others	
Phillips Lamps Fluorescent	
Phillips Lamps HID	
Raco Products--TS#0169	59%
Raco Products	59%
Rayovac Batteries -Akaline--TS#2800	45%
Rayovac Batteries - General purpose--TS#2800	45%
Rayovac	45%
Selecta Products (Batteries)	
Sensorswitch-Acuity--TS#4597	29%
Sensorswitch	29%
Siemens, Panel and Breakers--TS#3643	50%
Siemens	50%
Simkar Lighting--TS#7029	40%
Simkar Lighting	40%
Square D Circuit Breakers	
Square D Circuit Breakers	
Square D Panelboards	
Square D Safety Switches	
Square D	
Sure Lites Lighting--TS#6624	29%
Sure Lites Lighting	29%
Sylvania Ballasts--TS#6136	70%
Sylvania Lamps all others--TS#6136	57%
Sylvania Lamps Fluorescent--TS#6136	70%
Sylvania Lamps HID--TS#6136	76%
Sylvania	57%
T&B Products	55%
Thomas & Betts Steel City Boxes--TS#5991	60%
Thomas & Betts Wire--TS#6209	55%
Thomas & Betts	55%
Universal Ballasts	
Wiremold Products--TS#6776	27%
Wiremold	27%

**EXHIBIT C**

SEEC FORM 11

**NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN**

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

**Campaign Contribution and Solicitation Ban**

*No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;*

*In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.*

**Duty to Inform**

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

**Penalties for Violations**

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

**Contract Consequences**

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A 07-1 may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to “State Contractor Contribution Ban.”

**Definitions:**

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political

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subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv)

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serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.