

**CITY OF NEW YORK
DEPARTMENT OF SANITATION**

**AGREEMENT TO HIRE
EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
FOR THE 2017-18, 2018-19, AND
2019-20 WINTER SEASONS**

PIN: 82717CC0025

Contents:

AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS

- EXHIBIT A – Scope of Services**
- EXHIBIT B – Payment Rates**
- EXHIBIT C – List of Equipment Offered Forms**
- EXHIBIT D – Hired Equipment Time Certificate Form**
- EXHIBIT E – Equipment Capacity Certificate Forms**
- EXHIBIT F – City Standard Contract Terms and Conditions**
- EXHIBIT G – Iran Divestment Act Compliance Rider**
- EXHIBIT H – Electronic Funds Transfer Form**

LAW DEPARTMENT LOG NOS. _____

2017-038292

**APPROVAL AS TO FORM OF A CONTRACT
BY STANDARD TYPE OF CLASS**


Contract: Agreement to Hire Equipment with Operators for Snow Removal
Emergencies for the 2017-18, 2018-19, and 2019-20 Winter Seasons
(PIN: 82717CC0025)

Pursuant to the powers vested in me by Section 394, Subdivision (b) of the New York City Charter, I hereby approve as to form and certify as to legal authority by standard type of class the annexed contract to be entered into by the Department of Sanitation on behalf of the City of New York. This approval is valid for a period of twelve (12) months from the date hereof and for a maximum of two hundred and fifty (250) contracts.

The above approval is made on the express understanding that substantive language of the subject contracts will not be altered or changed in any way without prior submission to the Office of the Corporation Counsel for approval, provided, however, that blank spaces in the contracts require names, dates, dollar amounts and other similar details may be completed.

Dated:

Approved as to Form
Certified as to Legal Authority



Acting Corporation Counsel

2/7/2017

CB

**CITY OF NEW YORK
DEPARTMENT OF SANITATION**

**AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
FOR THE 2017-2018, 2018-2019, AND 2019-2020
WINTER SEASONS**

This Agreement is made and entered into this _____ day of _____, 201_, by and between the City of New York (the "**City**"), acting by and through its Department of Sanitation ("**DSNY**"), located at 125 Worth Street, Room 710, New York, NY 10013,

and _____ (the "**Contractor**"),

with its principal offices located at _____.

WITNESS:

WHEREAS, during snow removal emergencies, DSNY needs to hire certain equipment with operators during the winter seasons identified above, to supplement its in-house and other contractual resources to deal with the effects of the snow;

WHEREAS, the Contractor is willing and able to provide certain items of equipment described in this Agreement, with equipment operators, to DSNY during snow removal emergencies under the terms of this Agreement for the rates set forth in the Agreement;

WHEREAS, the Contractor has submitted to DSNY all necessary documents establishing that it has such equipment under its control, that such equipment is suitable to be used in a snow emergency and that the Contractor has submitted the applicable City VENDEX forms; and

WHEREAS, DSNY agrees to pay the Contractor for the use of the equipment at the rates set forth in this Agreement;

NOW THEREFORE, the parties agree as follows:

1.1 Parts of the Agreement

1.1.1 This form of Agreement and all of its Exhibits:

- Exhibit A – Scope of Services
- Exhibit B – Payment Rates
- Exhibit C – List of Equipment Offered Forms
- Exhibit D – Hired Equipment Time Certificate Form
- Exhibit E – Equipment Capacity Certificate Forms

- Exhibit F – City Standard Service Contract Terms and Conditions
 - Exhibit G – Iran Divestment Act Compliance Rider
 - Exhibit H – Electronic Funds Transfer Form
- 1.1.2 The preliminary information sent to prospective contractors with this Agreement and its Exhibits.
- 1.1.3 All completed and amended List(s) of Equipment Offered submitted by the Contractor.
- 1.1.4 In the event of any conflict between the provisions of Exhibit A, the Scope of Services, and Exhibit F, the City Standard Service Contract Terms and Conditions, the provisions of Exhibit A shall control.

1.2 Covered Services

The Contractor agrees to perform all required services as set forth in the Scope of Services.

1.3 VENDEX Administrative Fees

- 1.3.1 Prior to entering into the Agreement, the Department may request the City's Department of Investigation ("DOI") to conduct a Vendor Name Check on the proposed contractor.
- 1.3.2 If the proposed contractor is subject to the Vendor Name Check process, the PPB Rules at Section 2-08(f) provide that the fee for the administration of the VENDEX system (the "VENDEX Administrative Fee") is \$175.00 for contracts of an estimated value less than or equal to \$1,000,000.
- 1.3.3 The Contractor is responsible for paying the VENDEX Administrative Fee if a Vendor Name Check is performed. The Department has the right to deduct the VENDEX Administrative Fee from payments it owes to the Contractor.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2020

IN WITNESS WHEREOF: The Department's Agency Chief Contracting Officer acting on behalf of the City, and the Contractor, have executed three original copies of this Agreement. One copy will remain with the Department, the second will be filed with the Comptroller, and the third will be delivered to the Contractor.

THE CITY OF NEW YORK
acting by and through its Department of Sanitation

By: _____
Agency Chief Contracting Officer

Date

ACKNOWLEDGMENT BY AGENCY CHIEF CONTRACTING OFFICER

State of New York)
) ss:
County of New York)

On this _____ day of _____, 201__, before me personally came

_____ to me known and known to me to be the Agency Chief Contracting Officer of the Department of Sanitation of the City of New York, the person described as such in and who as such executed the foregoing instrument and he acknowledged to me that he executed the same as Commissioner for the purpose therein mentioned.

Subscribed and sworn to before me

this _____ day of _____, 201__

Notary Public

[CONTRACTOR'S SIGNATURE ON NEXT PAGE]

APPROVED AS TO FORM
Certified as to Legal Authority

Acting Corporation Counsel

THE CONTRACTOR

(Name)

By: _____
(Signature)

(Corporate Seal)

(Typed or Printed Name)

(Title)

(Date)

[Affidavit on Next Page]

**[FOR JOINT VENTURES ONLY:
IF THE CONTRACTOR IS A JOINT VENTURE,
EACH MEMBER OF THE JOINT VENTURE MUST SIGN THIS SIGNATURE PAGE AND THE
FOLLOWING ACKNOWLEDGMENT PAGE INDIVIDUALLY.**

**A JOINT VENTURE SHOULD MAKE AS MANY COPIES OF
THESE TWO PAGES AS NECESSARY.]**

BIDDER AFFIDAVIT

STATE OF _____

SS:

COUNTY OF _____

I, _____, being duly sworn, say:
(Choose only one of the following options; check box and complete)

Corporate Bidder:

I am the _____ of the above-named corporation whose name is subscribed to and which executed the foregoing bid. I reside at _____ . I have knowledge of several matters stated in the bid, and they are in all respects true.

Partnership Bidder:

I am a general partner of _____, the partnership described in and which executed the foregoing bid. I am duly authorized to execute this bid and the Contract on behalf of the partnership. I have knowledge of the several matters stated in the bid and they are in all respects true.

Individual Bidder:

I am the person described in and who executed the foregoing bid and the several matters stated in the bid are in all respects true, to my personal knowledge.

Other Entity:

I am the _____ of _____, the bidder that is described in and executed the foregoing bid, and am duly authorized to execute this bid and the Contract on its behalf. I have knowledge of the several matters stated in the bid, and they are in all respects true.

NOTE: If the Bidder is a Joint Venture, each member of the Joint Venture must sign a separate Bid Total and Signature Page, with an annexed Bidder Affidavit and Affirmation of Non-Debt

(Signature of the person who signed the bid)

Print Name: _____

Print Title: _____

Subscribed and sworn to before me this ____ day of _____, ____.

Notary Public

AFFIRMATION OF NON-DEBT (TAX AFFIRMATION)

The undersigned bidder affirms and declares that said bidder is not in arrears to the City of New York upon debt, contract or taxes and is not a defaulter, as surety or otherwise, upon any obligation to the City of New York, and has not been declared not responsible, or been disqualified from receiving public contracts, by any agency of the City of New York, nor is there any proceeding pending relating to the responsibility or qualification of the bidder to receive public contracts except:

Full name of Bidder _____
Address _____
City _____ State _____ Zip Code _____

CHECK ONE BOX AND INCLUDE THE APPROPRIATE NUMBER:

- A - Individual or Sole Proprietorship
SOCIAL SECURITY NUMBER _____
- B - Partnership or other unincorporated organization
EMPLOYER IDENTIFICATION NUMBER _____
- C - Corporation
EMPLOYER IDENTIFICATION NUMBER _____
- D - Other (specify: _____)
TAXPAYER IDENTIFICATION NUMBER _____

By: _____
(Signature)

(Print Name)

(Title)

Date: _____

**If a corporation place seal here.
Must be signed by an officer or duly authorized representative.**

**BIDDER'S CERTIFICATION OF COMPLIANCE WITH
IRAN DIVESTMENT ACT**

Pursuant to General Municipal Law §103-g, which generally prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran, the bidder/proposer submits the following certification:

[Please Check One]

BIDDER'S CERTIFICATION

- By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.
- I am unable to certify that my name and the name of the bidder/proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

Dated _____, New York

_____, 20__

SIGNATURE

PRINTED NAME

TITLE

Sworn to before me this
____ day of _____, 20__

Notary Public

CONTRACT AUTHORITY

MAYOR'S CERTIFICATE NO: CBX _____ DATED _____

BUDGET DIRECTOR'S CERTIFICATE NO. _____ DATED _____

**APPROPRIATION CERTIFICATE
DEPARTMENT OF SANITATION**

In conformity with the provisions of Section 6-101 of the Administrative Code of the City of New York, it is hereby certified that the estimated cost of the work, materials and supplies required by the within contract, amounting to \$ _____ is chargeable to the budget of the Department of Sanitation as follows:

Agency: _____ Budget Code: _____

Unit of Appropriation _____ Object Code: _____

I further hereby certify that the specifications contained herein comply with the terms and conditions of the
 Capital Budget **Expense Budget**.

For the Department of Sanitation

COMPTROLLER'S CERTIFICATE

The City of New York, _____, _____

In pursuance of the provisions of Section 6-101 of the Administrative Code of the City of New York, I hereby certify that there remains unapplied and unexpended a balance of the above mentioned fund applicable to this Contract sufficient to pay the estimated expense of executing this Contract, in the amount of:

\$ _____

Comptroller of the City of New York

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

- (1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

- (2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

[Name and title of authorized official, broker, or agent (typewritten)]

State of)
) ss.:
County of)

Sworn to before me this ____ day of _____ 20__

NOTARY PUBLIC FOR THE STATE OF _____

**DSNY ADDRESS FOR
INSURANCE-RELATED DOCUMENTS**

Wherever insurance documents, such as the Broker's Certificate, are to be sent to the DSNY Commissioner (e.g., notices, filings, or submissions), such documents shall be sent to the DSNY Commissioner's designee for insurance matters, the Agency Chief Contracting Officer (the "**ACCO**"), at the address set forth below.

**Kirk Eng
Agency Chief Contracting Officer
New York City Department of Sanitation
44 Beaver Street, Room 203
New York, New York 10004**

(212) 437-5048

EXHIBIT A:

Scope of Services

PIN: 82717CC0025

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

1: PURPOSE OF THE AGREEMENT	2
2: TERM OF THE AGREEMENT AND AUTHORITY TO ENTER INTO IT	2
3: DEFINITIONS	2
4: GENERAL EQUIPMENT AND OPERATOR REQUIREMENTS	3
5: PERFORMANCE OF THE SERVICES.....	5
5.1 THE DEPARTMENT’S INITIAL REQUEST FOR EQUIPMENT	5
5.2 THE DEPARTMENT’S RIGHT TO DIRECT THE MANNER OF PERFORMANCE	5
6: PAYMENT	7
6.1 APPLICATION OF HOURLY PAYMENT RATES.....	7
6.2 GUARANTEED MINIMUM PAYMENT WHEN EQUIPMENT REPORTS READY FOR WORK AS DIRECTED.....	7
6.3 ADDITIONAL COMPENSATION.....	8
A. TOLLS.....	8
B. RELOCATION FROM ONE WORK LOCATION TO ANOTHER.....	8
C. TRANSPORT ALLOWANCES AT THE BEGINNING AND END OF A SERVICE PERIOD.....	8
6.4 DEDUCTIONS FROM WORKING TIME	9
6.5 INVOICE SUBMISSION PROCEDURE.....	9
7: MEASUREMENT OF EQUIPMENT	10
8: EQUIPMENT SPECIFICATIONS.....	11
8.1 DUMP TRUCKS, TRACTOR-TRAILERS, & TRUCKS WITH ROLL-ON, ROLL-OFF CONTAINERS.....	11
8.2 FRONT END LOADERS, BACKHOES, & EXCAVATORS.....	12
8.3 BULLDOZERS.....	13
8.4 SKID-STEERS	13
8.5 SNOW MELTERS	13
8.6 BUSES (15 PASSENGER).....	14
8.7 BUSES (40 PASSENGER)	14
8.8 MISCELLANEOUS TOWING VEHICLES.....	15
8.9 PICK-UPS WITH PLOWS.....	15
9: GENERAL PROVISIONS.....	16
10: INSURANCE REQUIREMENTS.....	17
10.1 MINIMUM LIMITS AND SPECIAL CONDITIONS.....	17

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

1. PURPOSE OF THE AGREEMENT

- 1.1 This Agreement enables the Department to engage Equipment and Operators from the Contractor as necessary to cope with a Snow Removal Emergency in the City. The Department does not guarantee any minimum amount of work to the Contractor under this Agreement (except, as set forth in Section 6.2, below, once a Work Order has been issued to the Contractor). The Department may engage as many contractors as it determines, in its sole discretion, to be necessary to provide Equipment and Operators to cope with a Snow Removal Emergency.

2. TERM OF THE AGREEMENT AND AUTHORITY TO ENTER INTO IT

- 2.1 This form of Agreement covers Snow Removal Emergencies during the 2017-2018, 2018-2019, and 2019-2020 winter seasons (with each “winter season” commencing on October 1st and ending on April 30th of the following year). Once a signed copy of the Agreement has been registered with the City Comptroller, it will be effective in accordance with Section 2.2, below, during any subsequent Snow Removal Emergency declared during that same winter season.
- 2.2 This Agreement is entered into by the City in accordance with Section 3-06 of the PPB Rules and it will be effective only during Service Periods following Snow Removal Emergencies declared under that Section.

3. DEFINITIONS

- 3.1 In addition to the defined terms contained in Section 1.01 of **Exhibit F** to the Agreement, the following terms are used in this Scope of Services and the Payment Rate Chart (**Exhibit B** to the Agreement), as defined below:

Priority Contractors. Contractors who have, prior to a declaration of a Snow Removal Emergency: (1) signed an Agreement; (2) submitted fully completed VENDEX form(s) as applicable; and (3) had their qualifications and insurance reviewed and approved by the City.

District. One of fifty-nine sanitation districts into which the City is divided. Districts are subdivided into sections.

District Garage. A Department garage to which the Contractor is directed in a Work Order to deliver its Equipment.

Equipment. Any equipment of the types listed in Article 8 of this Scope of Services, *i.e.*, dump trucks; front end loaders; excavators; backhoes; miscellaneous towing vehicles; bulldozers; skid-steers; snow melters; pick-ups with plows; tractor-trailers; or trucks with roll-on, roll-off containers.

Equipment Capacity Certificate. One of two Department forms, samples of the current versions of which are annexed as **Exhibit E** to the Agreement, that are used to record the measurements of the capacity of hired trucks, trailers, and containers and of the buckets on hired front end loaders, backhoes, and excavators.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

Hired Equipment Time Certificate. The Department's form, a sample of the current version of which is attached to the Agreement as **Exhibit D**, used to record work time and deductible time for each item of Equipment for each shift.

List of Equipment Offered. Any of the Department's Forms DS1621A through DS1621G, samples of the current versions of which are attached to the Agreement as **Exhibit C**.

Operator. A person employed by the Contractor who drives an item of Equipment, operates any part of the Equipment, or drives a vehicle transporting an item of Equipment to a Work Location.

Payment Rates. The hourly rates set forth in **Exhibit B** at which the Department will pay the Contractor for the Working Time of each item of Equipment, covering the hire of the Equipment as well as the services of the Operators.

Service Period. The time period starting from the approval of the Department's declaration of a Snow Removal Emergency and running until the Department notifies the Contractor, in its discretion, that it no longer requires its Equipment.

Snow Removal Emergency. A condition resulting in the issuance of declaration by the Department under Section 3-06 of the PPB Rules that a procurement emergency exists requiring the use of Contractors hired under this Agreement to supplement its in-house and any other contractual snow removal resources. The approval of this declaration by the City Comptroller and Corporation Counsel marks the beginning of a Service Period.

Work Location. A place designated by the Department where the Contractor's services will be rendered. The Work Location may be a specific site, a section of a District, a list of streets, or otherwise as identified by the Department.

Work Order. A communication from the Department to the Contractor directing the Contractor to provide its Equipment and Operators under this Agreement. The Department may send a written Work Order by facsimile, by e-mail, or by overnight delivery service, or may issue an oral Work Order on the telephone or in person. A log number will constitute proof of the issuance of an oral Work Order.

Working Time. The period of time, measured in fifteen-minute increments, that an item of Equipment is actually working, as determined under Article 6 of this Scope of Services and recorded by Department representatives on a Hired Equipment Time Certificate.

4. GENERAL EQUIPMENT AND OPERATOR REQUIREMENTS

4.1 The Contractor's Equipment must be:

- A. registered with the Department of Motor Vehicles of the State of New York or the appropriate agency of another state, properly inspected and tagged with license plates as required to authorize its use on the streets of the City;

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

- B. fully insured as specified in the insurance requirements (set forth in Section 10.1, below, and in Article 7 of **Exhibit F**);
 - C. owned or leased by the Contractor for at least thirty days prior to any Service Period during which it will be used (proof of ownership or lease must be provided on demand);
 - D. in satisfactory operating condition and mechanically safe for its intended purpose, as determined by the Department, in its sole discretion;
 - E. subject to initial inspection and to re-inspection at all times to determine compliance with the requirements of the Agreement;
 - F. maintained, fueled, and repaired at the Contractor's own expense; and
 - G. controlled at all times by the Contractor and its employees.
- 4.2 Each Operator must be trained and hold any required license to drive and operate the item of Equipment to which he or she has been assigned, and must operate the Equipment safely, efficiently, and in compliance with all applicable Laws. Proof of license must be provided upon demand by the Department.
- 4.3 The Contractor must, before signing the Agreement, complete and submit to the Department a list of all Equipment offered for hire on the appropriate List of Equipment Offered form(s), samples of which are attached to this Agreement as **Exhibit C**. Revised List(s) of Equipment Offered should be submitted to the Department, if any of the information changes, by mailing to:
- New York City Department of Sanitation
Attn: Bureau Contracting Officer
Bureau of Cleaning and Collection
125 Worth Street, Room 823-D
New York, New York 10013
- A. Each item of Equipment to be supplied under this Agreement must be identified on a List of Equipment Offered prior to any Service Period during which it is used. All such completed forms will become part of this Agreement.
 - B. The license plate and Vehicle Identification Number ("VIN") for each item of Equipment on the list must correspond with its state registration.
- 4.4 When appropriate or when so directed by the Department, each item of Equipment and any of the Contractor's transport vehicles carrying the Equipment to and from Work Locations must use skid chains to provide traction. In addition, the Equipment must be adequately illuminated to be visible during snowfall and while performing services.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

- 4.5 When it begins its first shift at a District Garage in response to a Work Order, the Contractor must present its Equipment to the Department to measure its capacity as provided in Article 7 of this Scope of Services, below.

5. PERFORMANCE OF THE SERVICES

5.1 THE DEPARTMENT'S INITIAL REQUEST FOR EQUIPMENT

- A. Priority Contractors should be available by telephone 24 hours a day during the winter seasons. After its declaration of a Snow Removal Emergency, the Department may, if the Contractor agrees to perform services hereunder, issue a Work Order to the Contractor to begin providing services at the Work Location and time the Department requires.
1. The Department will direct the Contractor as to the work to be completed, the sequence of the work, and the manner in which the work must be carried out.
 2. The Work Order will advise the Contractor of the location of the District Garage to which the Equipment is assigned. After the Contractor reports for work with the assigned Equipment, the District Garage will assign the Equipment to a specific Work Location. Although the Contractor may have indicated a preference for a certain borough or District, the Department reserves the right to assign the Contractor's Equipment to the District and section where the Department needs the Equipment. Once a Work Order is issued, the Contractor may not refuse to report to the District or section Work Location where it has been assigned. Failure to report to the assigned Work Location will be deemed a material breach of this Agreement.

5.2 THE DEPARTMENT'S RIGHT TO DIRECT THE MANNER OF PERFORMANCE

- A. The Department, in its discretion, may direct the Contractor to perform services under this Agreement in any of the five boroughs of the City, in any District, and at any Work Location. The Contractor agrees to follow the Department's directions and to instruct its Operators to comply with all orders from the Department and to remain at a Work Location until the Department directs them to remove the Equipment.
- B. The Department will designate the starting and ending time for each shift. Depending on the snow conditions, the Department may determine that services should be performed in 8-hour shifts or longer shifts of up to 12 hours in length.
- C. The Department may require the Contractor to work any 8-hour or longer shift, day, night or a combination of day and night. The Department will not pay any compensation beyond the applicable Payment Rates shown in **Exhibit B** and any additional compensation applicable under Section 6.3.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

- D. Unless the Department directs otherwise, eight-hour shifts will begin at 7:00 a.m., 4:00 p.m., and 12:00 a.m. Twelve-hour shifts will generally begin at 7:00 a.m. and 7:00 p.m. The Department may direct different starting and ending times, in its sole discretion.
 - E. For each shift, the Department and the Contractor will agree as to the duration of meal periods. Meal periods shall not exceed one half-hour. Neither meal periods nor break periods will be compensated by the Department, and they will be deducted from working time on the Hired Equipment Time Certificates under Section 6.4, below.
 - F. The Department will specify the quitting time for each shift, which may occur before 8 hours have elapsed if further services are not needed. The Contractor's Operators must not leave the Work Location before the end of a shift unless the Department authorizes them to do so.
 - G. Following the end of a shift, the Department will enter the actual quitting time and sign the Hired Equipment Time Certificates. The Contractor's copy may be picked up at the District Garage 24 hours after the end of the shift.
 - H. The Contractor's Equipment may not be stored on City property. The Contractor is solely responsible for the security of its Equipment at all times.
- 5.3 If the Department requires any item of Equipment for the next shift or day, the Department will notify each Contractor by telephone, e-mail, or fax at one of the numbers it has supplied. The Contractor is solely responsible for providing this information to its Operators. Alternatively, a Department representative at the District Garage may, instead of dismissing the Equipment, notify the Operator that the Equipment should return for a specified additional shift, and in such a case, such oral notification to the Operator will be deemed adequate notification to the Contractor. The guaranteed minimum payment described in Section 6.2, below, does not apply to any shift after the first shift for which the Contractor is issued a Work Order during a Service Period.
- 5.4 The Department may make a determination at any time (including after the Equipment has begun work) that a particular item of Equipment is not able to perform the service for which it is intended, or is not mechanically safe, and direct the Contractor to discontinue using the Equipment under the Agreement. The Department's determination that the Equipment is unsatisfactory or mechanically unsafe will be final and binding upon the Contractor.
- 5.5 The Department, in its sole discretion, may determine whether an item of Equipment is being operated in a safe and appropriate manner. If it determines that an Operator is operating the Equipment in an unsatisfactory manner, the Department may direct the Operator to stop working. Any such determination will be final and binding upon the Contractor.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

6. PAYMENT

6.1 APPLICATION OF HOURLY PAYMENT RATES

- A. The Hired Equipment Time Certificate signed by a Department representative for each shift worked will be the record upon which the Department will calculate the hours worked by an item of Equipment and its Operator(s).
- B. The Department will pay the Contractor at the Payment Rates shown in **Exhibit B** for the 2017-18, 2018-19, and 2019-20 winter seasons. These Payment Rates include rate increases of 2% (not compounded) for both the 2018-19 and 2019-20 winter seasons, as detailed in **Exhibit B**.
- C. The Department will measure Working Time in fifteen-minute periods.
- D. The City agrees to pay, and the Contractor agrees to accept, the following as full payment for all services under this Agreement:

Full Payment for All Services and Equipment Provided under this Agreement						
=						
The Payment Rate for the item of Equipment provided in Section 6.1(B)	X	The number of hours worked, as shown on the Hired Equipment Time Certificate, for the item of Equipment	+	Additional Compensation as described in Section 6.3	-	Any applicable deduction as described in Section 6.4

- E. If the last Working Time period for an item of Equipment is less than fifteen minutes:
 - 1. The Department will not pay the Contractor for a partial Working Time period of less than ten minutes.
 - 2. The Department will pay the Contractor for a quarter of an hour if a partial Working Time period is ten minutes or more.
- F. The full payment amount described in Section 6.1(D) is for all of the Contractor's services and expenses. The Department will not pay the Contractor any additional compensation that is not explicitly provided for in Section 6.2 or Section 6.3, below.

6.2 GUARANTEED MINIMUM PAYMENT WHEN EQUIPMENT REPORTS READY FOR WORK AS DIRECTED

- A. If the Department has issued a Work Order for an item of Equipment, the Department will pay the Contractor for a full 8-hour shift whether the Department assigns the item of

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

Equipment to work the full shift or not, provided that both of the following conditions are met:

1. The necessary Operator(s), with the Equipment, reported for work no later than fifteen minutes after the starting time fixed for the shift; and
 2. The Equipment and the Operator(s) are satisfactory to the Department and available for work until dismissed by the Department.
- B. This guaranteed minimum payment, as described in (A), above, applies only to the first shift assigned to the item of Equipment during a particular Service Period. If the Contractor accepts the assignment of additional shifts, the item of Equipment may be dismissed after less than 8 hours from the commencement of the shift, and the Contractor will only be paid for actual Working Time. (See Sections 5.2(F) and 5.3, above.)

6.3 ADDITIONAL COMPENSATION

A. TOLLS

1. If the Department directs the Contractor to move from one Work Location to another, and this move results in the Contractor paying a bridge, ferry, or tunnel toll, the Department will reimburse the Contractor for the toll.
2. The Department will not pay the Contractor for bridge, ferry, or tunnel toll charges that it incurs for an item of Equipment: (a) before it is initially presented to begin work; (b) after its work is completed; or (c) when the Contractor chooses to move the Equipment without being directed by the Department to do so.

B. RELOCATION FROM ONE WORK LOCATION TO ANOTHER

1. If the Department directs the Contractor to move an item of Equipment to another Work Location during a shift, the Department will pay the Contractor for the non-working time required to relocate the Equipment at the applicable Payment Rate shown on **Exhibit B**.
2. If the Department directs the Contractor to move an item of Equipment to a different Work Location between shifts, the Department will not pay the Contractor for the time required to relocate the Equipment.

C. TRANSPORT ALLOWANCES AT THE BEGINNING AND END OF A SERVICE PERIOD

1. Transport allowances will be paid in accordance with this Subsection C at the Payment Rates shown on **Exhibit B**, in addition to the Working Time for the item of Equipment, at the beginning of the first shift worked during a Service Period, and at the end of the last full or partial shift for the Service Period.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

2. For a **pneumatic tire-type front end loader, excavator, or backhoe**, the Department will pay a one-hour initial transport allowance and a one-hour dismissal transport allowance.
3. For a **crawler-type front end loader, excavator, or backhoe**, the Department will pay a two-hour initial transport allowance and a two-hour dismissal transport allowance.
4. For a **bulldozer**, the Department will pay a three-hour initial transport allowance and a three-hour dismissal transport allowance.
5. The Department will not pay any transport allowance for dump trucks, tractor-trailers, trucks with roll-on/roll-off containers, miscellaneous towing vehicles, skid-steers, pick-ups, or snow melters.
6. The initial and dismissal transport allowances described in (2) – (4), above, will be paid only once for each item of Equipment during a Service Period, unless the Department recalls an item of Equipment after dismissing it by issuing a new Work Order. In such a case, the Department will pay a second initial and dismissal transport allowance if the item of Equipment had actually been removed from the last assigned Work Location before the recall.

6.4 DEDUCTIONS FROM WORKING TIME

- A. Except for the situation described in Section 6.2, above, or if caused by the fault of the Department, the Department will not pay for time during a shift when the Equipment does not operate, including, but not limited to, non-operation attributable to: (1) meal or break periods; (2) loitering of Operators; (3) mechanical or tire problems, including problems due to the Contractor's failure to fuel or service the Equipment; (4) departure from a Work Location before the end of a shift; and (5) the Department's stop-work determination under Sections 5.4 or 5.5, above. Any such non-working time will be deducted by the Department on the Hired Equipment Time Certificate from the applicable shift.
- B. The Department will not pay the Contractor when Equipment arrives for work on days or shifts when it has not been specifically requested in a Work Order.

6.5 INVOICE SUBMISSION PROCEDURE

- A. In order to receive payment for services rendered, the Contractor must prepare and submit invoices as set forth in this Section. Any questions concerning the requirements of this Section may be directed to the Department's Division of Audit and Accounts at 646-885-0810.
- B. Each invoice itself must provide:

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

1. the date(s), shift(s), and the number of hours worked by each item of Equipment, along with the Certificate Number(s) of the applicable Hired Equipment Time Certificate(s);
 2. the Payment Rate from **Exhibit B** for each item of Equipment;
 3. the details of any Additional Compensation being sought under Section 6.3 (including receipts for any tolls for which reimbursement is sought); and
 3. the Contractor's DSNY-assigned index number (as noted on the Hired Equipment Time Certificate(s)).
- C. Invoices should be submitted within thirty days after the end of any Service Period to:
- New York City Department of Sanitation
Bureau of Fiscal Services
Division of Audit and Accounts
59 Maiden Lane, 5th Floor
New York, New York 10038
- D. Invoices cannot be processed for payment until the required number of copies of the duly signed Agreement have been submitted to the Department.
- E. If the Contractor believes a payment that the Department has made is incorrect, the Contractor must present a written dispute to the Agency Head as set forth in Section 12.03(D) of **Exhibit F** to this Agreement within 30 days of the date of payment. Failure to timely file a dispute as mandated by that Section shall constitute a waiver by the Contractor of its claim.

7. MEASUREMENT OF EQUIPMENT

- 7.1 When an item of Equipment works its first shift during any Service Period, the Department will inspect and measure it. The Department's measurement of the capacity of the item will be the basis for payment under the Agreement and will take precedence over any other type of measurement, including the manufacturer's rated capacity for the Equipment.
- 7.2 Based on its inspection, the Department will prepare an Equipment Capacity Certificate for each item of Equipment. Samples of the current versions of the Department's forms of Equipment Capacity Certificates are attached as **Exhibit E** to the Agreement.
- 7.3 The Department will place on each item of Equipment a numbered placard bearing its: (a) capacity in cubic yards as measured by the Department; (b) manufacturer and model; (c) VIN; and (d) license number. The placard must be placed in the front window of the item of Equipment while it is performing services under the Agreement.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

- 7.4 Any changes to the Equipment that are made after the initial measurement must be reported by Contractor to the District Garage. Such changes might include, but are not necessarily limited to, changes to the:
- A. vehicle identification number;
 - B. capacity of a body of a dump truck;
 - C. size of a bucket of a front end loader, backhoe, or excavator;
 - D. rated draw-bar horsepower of a bulldozer; or
 - E. weight of a miscellaneous towing vehicle.
- 7.5 The Department may re-examine an item of Equipment and issue a revised Equipment Capacity Certificate if any of the following occur:
- A. the Department receives notice of a change;
 - B. the item of Equipment is sent to another District Garage; or
 - C. the Department's representatives observe a change or suspect that the capacity of an item of Equipment has been diminished in any manner without notice to DSNY after it was measured.
- 7.6 The Contractor will be paid for an entire Service Period at the lowest capacity measured by the Department during that Service Period.
- 7.7 No dispute may be raised under the procedure set forth in Section 12.03 of **Exhibit F** based on discrepancies between two or more measurements of Equipment capacity made by the Department unless the matter was raised with a Department representative before the Equipment left the last assigned Work Location. The Department representative at such Work Location shall note any measurement dispute raised by the Contractor in the "Remarks" section of the Equipment Capacity Certificate.

8. EQUIPMENT SPECIFICATIONS

8.1 DUMP TRUCKS, TRACTOR TRAILERS, AND TRUCKS WITH ROLL-ON, ROLL-OFF CONTAINERS

- A. MINIMUM REQUIREMENTS
 - 1. Must be of the back-dumping type.
 - 2. Must be not less than 14,000 pounds gross vehicle weight, as verified by the state registration certificate.
 - 3. Must have a body capacity of at least 14 cubic yards, as measured by the Department.
 - 4. Must have a body height of not more than 10 feet, 9 inches, above the ground.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

5. Must have a hinged tailgate (unless the Department determines that a particular type of different tailgate does not interfere with speedy and easy dumping of loads).
6. Must have a body structure with all permanent sides (not to include wooden sides), and of uniform height on all three sides other than the tailgate end.

B. USE OF EQUIPMENT

To haul and rapidly unload snow and ice at DSNY-identified disposal points.

C. MEASUREMENT OF CAPACITY

Will be done as shown on Form DS 1691 contained in **Exhibit E** to the Agreement. If the tailgate end is not built up to the height of the other three sides, capacity will be determined as if the tailgate end were built up to the height of the other three sides, and then 25% of that theoretical capacity will be deducted.

8.2 FRONT END LOADERS, BACKHOES, & EXCAVATORS

A. MINIMUM REQUIREMENTS

1. May have gasoline or diesel engines.
2. May have crawler tracks if the Department deems it best for a particular work assignment.
3. Must have a bucket capacity of at least one-half of a cubic yard, as measured by the Department.
4. Front end loaders must have a minimum height with bucket in dumping position from ground to cutting lip of ten feet, nine inches, when used for loading snow (except that hire of a front end loader with lesser dumping height may be authorized in a particular instance for piling snow to clear snow drifts).
5. Must have maneuverability and power to break any salt encrustation during loading operations.

B. USE OF EQUIPMENT

To pile, clear, and load snow and ice from City streets.

C. MEASUREMENT OF CAPACITY

The Department will determine bucket capacity by using a **struck level basis of measurement** (not a "heaping" basis of measurement). The Department's measurement

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

of capacity will be final and binding on the Contractor.

8.3 BULLDOZERS

A. MINIMUM REQUIREMENTS

1. Tractors must be of the crawler type, either gasoline or diesel engine powered, and have either straight or angling blades as recommended by the manufacturer for use with that model of Equipment.
2. Must have not less than 45 rated draw-bar horsepower, as determined by the manufacturer's model number.

B. USE OF EQUIPMENT

To plow, clear, and pile snow and ice from the City streets.

8.4 SKID-STEERS

A. MINIMUM REQUIREMENTS

1. May have gasoline or diesel engine.
2. Must be equipped with a bucket.
3. Must have not less than 800 pound rated operating capacity with a minimum of 25 horsepower.

B. USE OF EQUIPMENT

To clear accumulated snow from bus stops, crosswalks, fire hydrants, and other limited access areas.

8.5 SNOW MELTERS

A. MINIMUM REQUIREMENTS

1. Must be diesel engine powered and be mounted on a trailer.
2. Must be able to melt a minimum of at least 60 tons of snow and ice per hour based on a density of 30 pounds per cubic foot.
3. The Contractor must supply a vehicle to transport each snow melter to Work Locations specified by the Department.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

4. The Contractor must supply at least one snow melter Operator with each snow melter.

B. USE OF EQUIPMENT

To melt accumulated snow on City streets during and after snowstorms.

C. DETERMINING CAPACITY

Manufacturer's model number will be used to determine the capacity of snow melters.

8.6 BUSES (15 PASSENGER)

A. MINIMUM REQUIREMENTS

1. Engine: Gasoline or Diesel
2. Fuel Tank: 33 or 40 Gallons
3. Horsepower: 255-324
4. Gross Vehicle Weight Rating ("GVWR"): Up to 10,100 lbs.

B. USE OF EQUIPMENT

To pick up laborers and move them to different locations to assist with shoveling snow.

C. CAPACITY

Up to 20 passengers.

8.7 BUSES (40 PASSENGER)

A. MINIMUM REQUIREMENTS

1. Engine: Gasoline or Diesel
2. Fuel Tank: 60 or 100 Gallons
3. Horsepower: 200-260
4. GVWR: Up to 33,000 lbs.

B. USE OF EQUIPMENT

To pick up laborers and move them to different locations to assist with shoveling snow.

C. CAPACITY

Up to 78 passengers.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

8.8 MISCELLANEOUS TOWING VEHICLES

A. MINIMUM REQUIREMENTS

1. May have gasoline or diesel engine.
2. May include:
 - a. light duty wreckers
 - b. medium duty wreckers
 - c. heavy duty wreckers
 - d. car carriers
3. Must be of not less than 4,000 pounds gross vehicle weight, which will be verified by the State registration certificate for the vehicle.
4. Must have sufficient power to lift and tow various passenger cars or other motor vehicles from snow banks, streets, or intersections.
5. The Contractor must supply at least one qualified Operator with each vehicle.
6. Vehicles and Operators must comply in all respects with Title 20 of the City Administrative Code, Chapter 2, Subchapter 31, with respect to the licensing of towing businesses, companies, and operators by the City's Department of Consumer Affairs.

B. USE OF EQUIPMENT

To move vehicles parked on City streets or blocking streets and intersections during and after snowstorms.

8.9 PICK-UPS WITH PLOWS

A. MINIMUM REQUIREMENTS

1. Must be between 16,000 and 25,000 pounds gross vehicle weight, as verified by the state registration certificate.
2. Must be equipped with a plow nine to eleven feet wide.
3. Plow must be no more than 30 inches high.
4. Plow must articulate (i.e., it must be a "PRP," or power reversible plow).
5. Plow must be capable of being set with its cutting edge striking the ground.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

B. USE OF EQUIPMENT

To clear accumulated snow from City streets.

9. GENERAL PROVISIONS

- 9.1 The Contractor must send the Department notice of any change to its address, facsimile number, e-mail address, or telephone number, to the attention of:

New York City Department of Sanitation
Attn: Bureau Contracting Officer
Bureau of Cleaning and Collection
125 Worth Street, Room 823-D
New York, New York 10013

- 9.2 In selecting Contractors to perform services during a Snow Removal Emergency, the Department will contact Priority Contractors first. However, the Department may enter into Agreements with Contractors that are not Priority Contractors if the Department estimates that the Snow Removal Emergency requires more equipment than is available from Priority Contractors.
- 9.3 No subcontracting is permitted under this Agreement.
- 9.4 By signing this Agreement, the Contractor's authorized signatory warrants that he or she has read and understands this Agreement and its terms and conditions, understands the Scope of Services and shift requirements, and accepts the role of the Department in determining how much work the Contractor will perform. The Contractor agrees that it will have no claim against the City, the Department, or its officials or employees, including, but not limited to, claims for loss of profits, loss of business opportunity, and for actual or consequential damages, which may result from the Department's exercise of its discretion under this Agreement.
- 9.5 The Department has the sole right to determine whether the Contractor's services meet its operational requirements and the requirements of the Agreement, and may terminate this Agreement if it determines, in its sole judgment, that the Contractor's services do not meet such requirements.
- 9.6 The Contractor agrees to use only Operators that are, in the Department's sole judgment, competent, efficient, and courteous to Department representatives and to the public, and to remove any Operator if directed to do so by the Department and replace that Operator with one that the Department deems satisfactory, in its discretion.
- 9.7 Nothing contained in this Agreement precludes the Contractor from signing this Agreement and bidding on any other contract that the Department may issue for the plowing and/or removal of snow and ice in the City (a "Requirements Contract"). However, a Contractor that is awarded a Requirements Contract will be required to perform as directed under that contract, and may not accept any Work Orders under this Agreement unless such additional work will not interfere with its ability to satisfy its obligations under the Requirements Contract.

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

SCOPE OF SERVICES

10. INSURANCE REQUIREMENTS

10.1 MINIMUM LIMITS AND SPECIAL CONDITIONS

- A. In compliance with all of the terms and conditions included in Article 7 of **Exhibit F**, the following types of insurance will be required from the Contractor, with the minimum limits and special conditions as stated for each:
1. **Commercial General Liability:** \$1,000,000 per occurrence, \$2,000,000 aggregate (applicable separately to this Agreement), naming as an additional insured “the City of New York, including its officials and employees”;
 2. **Workers’ Compensation:** with statutory limits per New York State law without regard to jurisdiction;
 3. **Disability Benefits Insurance:** with statutory limits per New York State law without regard to jurisdiction;
 4. **Employer’s Liability:** with statutory limits per New York State law without regard to jurisdiction; and
 5. **Comprehensive Business Auto Coverage:** \$1,000,000 per accident.
- B. Every Certificate of Insurance must be accompanied by either a certification by the broker in the form set forth in the Agreement (following page 8), or complete copies of all policies referenced in the Certificate of Insurance. In the absence of completed policies, insurance binders are acceptable.
- C. All insurance and insurance claim-related documents that the Agreement requires be sent to the Commissioner or to the Department (e.g., notices, filings, or submissions) shall be sent to:

New York City Department of Sanitation
Attn: Agency Chief Contracting Officer
44 Beaver Street, Room 203
New York, New York 10004

EXHIBIT B:

Payment Rates

PIN: 82717CC0025

**New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies**

EXHIBIT B

**HOURLY PAYMENT RATES FOR EQUIPMENT
(including costs for Operators)
2017-2018, 2018-2019, and 2019-2020 Winter Seasons**

**DUMP TRUCKS, TRACTOR TRAILERS, & ROLL-ON/ROLL-OFF
CONTAINERS**

CAPACITY IN CUBIC YARDS	FY18	FY19	FY20
14.0 – 18.0	\$153	\$156	\$160
18.1 – 22.0	\$171	\$175	\$179
22.1 – 30.9	\$188	\$192	\$196
31.0 and over	\$223	\$227	\$232

FRONT END LOADERS, BACKHOES, & EXCAVATORS

BUCKET CAPACITY IN CUBIC YARDS	FY18	FY19	FY20
.50 – .99	\$157	\$160	\$163
1.0 – 2.99	\$175	\$179	\$183
3.0 – 3.99	\$248	\$253	\$258
4.0 and over	\$302	\$308	\$314

New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies

EXHIBIT B

**HOURLY PAYMENT RATES FOR EQUIPMENT
(including costs for Operators)
2017-2018, 2018-2019, and 2019-2020 Winter Seasons**

BULLDOZERS

DRAW-BAR
HORSEPOWER

	FY18	FY19	FY20
45 – 90	\$116	\$118	\$120
91 – 150	\$148	\$151	\$155
151 and over	\$174	\$178	\$182

SKID-STEERS WITH BUCKET

	FY18	FY19	FY20
	\$157	\$160	\$163

SNOW MELTERS

\$11 PER TON OF HOURLY MELTING CAPACITY

(e.g., \$660 for a melter with an hourly capacity of 60 tons;
\$2,200 for a melter with an hourly capacity of 200 tons)

BUSES

\$ 75.00 PER HOUR (15 PASSENGER)

\$ 100.00 PER HOUR (40 PASSENGER)

New York City Department of Sanitation
Agreement to Hire Equipment with Operators for Snow Removal Emergencies

EXHIBIT B

**HOURLY PAYMENT RATES FOR EQUIPMENT
(including costs for Operators)
2017-2018, 2018-2019, and 2019-2020 Winter Seasons**

MISCELLANEOUS TOWING VEHICLES

FY18	FY19	FY20
\$164	\$167	\$170

PICK-UPS WITH PLOWS

FY18	FY19	FY20
\$137	\$140	\$143

EXHIBIT C:

List of Equipment Offered Forms

PIN: 82717CC0025

sanitation

DATE SUBMITTED: _____

LIST OF EQUIPMENT OFFERED DS 1621A (7.17)

ROLL ON ROLL OFFS, TRACTOR TRAILERS, DUMP TRUCKS

CONTRACTOR'S NAME	ADDRESS
-------------------	---------

	MANUFACTURER	MODEL	LICENSE PLATE NUMBER	VIN NUMBER	TRK. CU. YDS. CAPACITY	TRK. HEIGHT FROM GROUND TO LIP OF BODY
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						

sanitation

DATE SUBMITTED: _____

LIST OF EQUIPMENT OFFERED DS 1621B (7.17)

FRONT END LOADERS, BACKHOES, EXCAVATORS

CONTRACTOR'S NAME	ADDRESS
-------------------	---------

	MANUFACTURER	MODEL	LICENSE PLATE NUMBER	VIN NUMBER	BUCKET CUBIC YARDS CAPACITY	TIRES	CRAWLERS
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							

sanitation

DATE SUBMITTED: _____

LIST OF EQUIPMENT OFFERED DS 1621D (7.17)

SKID-STEERS

CONTRACTOR'S NAME	ADDRESS
-------------------	---------

	MANUFACTURER	MODEL	LICENSE PLATE NUMBER	VIN NUMBER	HORSE POWER 25 MINIMUM	TIRES	CRAWLERS
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							

sanitation

DATE SUBMITTED: _____

LIST OF EQUIPMENT OFFERED DS 1621E (7.17)

SNOW MELTERS

CONTRACTOR'S NAME	ADDRESS
-------------------	---------

	MANUFACTURER	MODEL	LIC. NUMBER	VIN NUMBER	CAPACITY PER HOUR	TIRES	CRAWLERS
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							

sanitation

DATE SUBMITTED: _____

LIST OF EQUIPMENT OFFERED DS 1621F (7.17)

TOWING VEHICLES

CONTRACTOR'S NAME	ADDRESS
-------------------	---------

	MANUFACTURER	MODEL	LICENSE PLATE NUMBER	VIN NUMBER	GROSS VEHICLE WEIGHT 400 LBS MINIMUM
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					

sanitation

DATE SUBMITTED: _____

LIST OF EQUIPMENT OFFERED DS 1621G (7.17)

PICK-UPS WITH PLOWS

CONTRACTOR'S NAME	ADDRESS
-------------------	---------

	MANUFACTURER	MODEL	LICENSE PLATE NUMBER	VIN NUMBER	GROSS VEHICLE WEIGHT	PLOW WIDTH
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						

sanitation

DATE SUBMITTED: _____

LIST OF EQUIPMENT OFFERED DS 1621H (7.17)

BUSES

CONTRACTOR'S NAME	ADDRESS
-------------------	---------

	MANUFACTURER	MODEL	LICENSE PLATE NUMBER	VIN NUMBER	GROSS VEHICLE WEIGHT	PLOW WIDTH
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						

EXHIBIT D:

Hired Equipment Time Certificate Form

PIN: 82717CC0025

THE CITY OF NEW YORK Department of Sanitation
 HIRED EQUIPMENT TIME CERTIFICATE DS 1809 (SR 44-7) (7.17)

CERTIFICATE NO.

CONTRACTOR'S INFORMATION

DATE

CONTRACTOR'S NAME		CONTRACTOR'S INDEX NO.		OPERATOR'S NAME		CONTRACTOR'S 24/7 CONTACT PHONE NO.	
ADDRESS		CITY		STATE	ZIP	BUSINESS PHONE	
						BUSINESS E-MAIL	

EQUIPMENT INFORMATION

PLACARD INFORMATION

LICENSE PLATE	TRAILER PLATE	STATE	BORO	DIST.	STORM	SEQUENCE
EQUIPMENT TYPE	MAKE	MODEL	ENGINE NO. / VIN NO.			
DISTRICT ASSIGNED	CAPACITY	DSNY MEASURER (PRINT)			TITLE	BADGE NO.

HAULING RUNS (FOR DUMP TRUCKS ONLY)

HAULING / PILING STARTING POINT		TIME ARRIVED AT HAULING LOCATION	DUMPING LOCATION (i.e. SNOW DUMP)		
PUNCH	TIME LOADED	DSNY REPRESENTATIVE NAME	TIME DUMPED	DSNY REPRESENTATIVE NAME	PUNCH
1					1
2					2
3					3
4					4
5					5
6					6
7					7
8					8
9					9
10					10
11					11
12					12

If more than 12 loads, use second SR 44-7. Cross out red certificate number on second SR 44-7 and write in certificate number of original SR 44-7, staple second SR 44-7 to original SR 44-7. Write 1 of 2 pages across original SR 44-7, and 2 of 2 pages across second SR 44-7 etc.

WORK PERFORMANCE SECTION

START OF SCHEDULED SHIFT	ACTUAL TIME STARTED	DATE STARTED	CERTIFIED BY DSNY REPRESENTATIVE (PRINT & SIGNATURE)
	ACTUAL TIME DISMISSED	DATE DISMISSED	CERTIFIED BY DSNY REPRESENTATIVE (PRINT & SIGNATURE)

NON-DEDUCTIBLE TIME

DEDUCTIBLE NON-WORKING TIME

EQUIPMENT RELOCATED FROM:	EQUIPMENT RELOCATED TO:	REASON FOR DEDUCTIBLE TIME	FROM TIME	TO TIME	DEDUCTED TIME
TRANSFERRED BY DSNY REPRESENTATIVE (PRINT & SIGNATURE)	TIME OF DEPARTURE				
TRANSFER ACCEPTED BY DSNY REPRESENTATIVE (PRINT & SIGNATURE)	TIME OF ARRIVAL				
REMARKS	CERTIFICATE NO.	DEDUCTION CERTIFIED BY DSNY REPRESENTATIVE (PRINT & SIGNATURE)			TOTAL DEDUCTIBLE TIME
					Hrs. Mins.
CERTIFIED BY DSNY REPRESENTATIVE (PRINT & SIGNATURE)		TOTAL HOURS CERTIFIED FOR PAYMENT			Hrs. Mins.
		ACKNOWLEDGEMENT OF RECEIPT BY CONTRACTOR'S REPRESENTATIVE (PRINT & SIGNATURE)			DATE

WHITE — FISCAL SERVICES

YELLOW — DISTRICT

BUFF — VENDOR

EXHIBIT E:

Equipment Capacity Certificate Forms

PIN: 82717CC0025

sanitation

EQUIPMENT CAPACITY CERTIFICATE DS 1691A (TMU 20) (7.17)

DATE

CONTRACTOR'S NAME		OPERATOR'S NAME		DSNY INDEX NO.	
STREET ADDRESS			CITY	STATE	ZIP CODE

VEHICLE INFORMATION

PLACARD INFORMATION

COMMERCIAL LICENSE PLATE NO.	MAKE	YEAR	VIN / ENGINE NO.	BORO	DISTRICT	STORM	SEQUENCE
TRAILER LICENSE PLATE NO.	TRAILER MAKE	YEAR	TRAILER VIN NO.				

INITIAL MEASUREMENT OF TRUCK/TRAILER/CONTAINER

SECTION	LENGTH	WIDTH	DEPTH	CUBIC YARDS
BOTTOM	X	X	=	A
TOP	X	X	=	B
A + B TOTALS CUBIC YARDS →				
*ADJUSTMENTS FOR DEDUCTIONS	X	X	=	C
A + B - C TOTALS CUBIC YARDS →				

FULL TAILGATE

PART TAILGATE

MEASURING LOCATION	DISTRICT	START TIME	FINISH TIME
MEASURER'S NAME (PRINT)	SIGNATURE	BADGE NO.	DISTRICT

REASON FOR REJECTION:

DRAW DIAGRAM OF TRUCK / TRAILER BODY/CONTAINER

*SHOW WORK REQUIRING ADJUSTMENTS

EQUIPMENT CAPACITY CERTIFICATE DS 1691B (TMU 20) (7.17)

REMEASUREMENT OF TRUCK / TRAILER BODY/CONTAINER

CONTRACTOR'S NAME	OPERATOR'S NAME	DSNY INDEX NO.
-------------------	-----------------	----------------

VEHICLE INFORMATION

PLACARD INFORMATION

COMMERCIAL LICENSE PLATE NO.	MAKE	YEAR	VIN / ENGINE NO.	BORO	DISTRICT	STORM	SEQUENCE
TRAILER LICENSE PLATE NO.	TRAILER MAKE	YEAR	TRAILER VIN NO.				

REMEASUREMENT OF TRUCK/TRAILER/CONTAINER

SECTION	LENGTH		WIDTH		DEPTH		CUBIC YARDS
BOTTOM		X		X		=	A
TOP		X		X		=	B
A + B TOTALS CUBIC YARDS						➔	
*ADJUSTMENTS FOR DEDUCTIONS		X		X		=	C
A + B - C TOTALS CUBIC YARDS						➔	

FULL TAILGATE

PART TAILGATE

MEASURING LOCATION	DISTRICT	START TIME	FINISH TIME
MEASURER'S NAME (PRINT)	SIGNATURE	BADGE NO.	DISTRICT

REASON FOR REJECTION:

DRAW DIAGRAM OF TRUCK / TRAILER BODY/CONTAINER

*SHOW WORK REQUIRING ADJUSTMENTS

sanitation

EQUIPMENT CAPACITY CERTIFICATE

FOR FRONT END LOADER, BACKHOE OR EXCAVATOR BUCKET DS 1692A (TMU 20A) (7.17)

DATE

CONTRACTOR'S NAME		OPERATOR'S NAME		DSNY INDEX NO.	
STREET ADDRESS			CITY	STATE	ZIP CODE

VEHICLE INFORMATION

PLACARD INFORMATION

COMMERCIAL LICENSE PLATE NO.	MAKE	YEAR	VIN / ENGINE NO.	BORO	DISTRICT	STORM	SEQUENCE
------------------------------	------	------	------------------	------	----------	-------	----------

METHOD OF MEASUREMENT

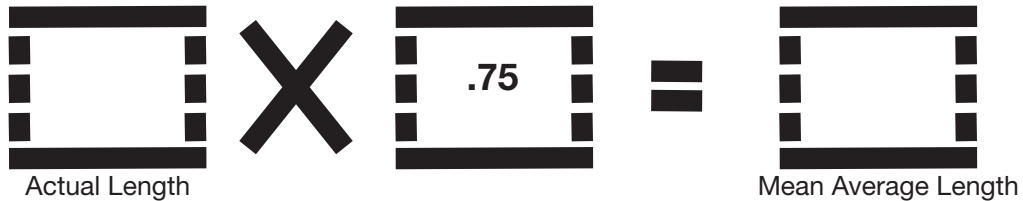
LENGTH	WIDTH	DEPTH
<p>Bucket Strike Line</p> <p>Measure from the top of cutting edge to the back of the Bucket Strike Line.</p>	<p>Face bucket, measure from inside left to right.</p>	<p>Strike Line Stick</p> <p>Put stick across the strike line and measure from under the stick to the deepest part of the bucket.</p>

INITIAL MEASUREMENT OF CAPACITY

COMPUTING THE CUBIC YARDS OF A BUCKET IS DONE AS FOLLOWS:

STEP 1) Calculate the mean average length using the following formula:

$$\text{Actual Length} \times .75 = \text{Mean Average Length}$$



STEP 2) Calculate cubic yards of bucket capacity using the following formula:

$$\text{Mean Average Length} \times \text{Width} \times \text{Depth} = \text{Total Cubic Yards of Bucket Capacity}$$



MEASURING LOCATION		DISTRICT	START TIME	FINISH TIME
MEASURER'S NAME (PRINT)		SIGNATURE	BADGE NO.	DISTRICT

REASON FOR REJECTION:

EQUIPMENT CAPACITY CERTIFICATE

REMEASUREMENT OF BUCKET ON FRONT END LOADER, BACKHOE OR EXCAVATOR DS 1692B (TMU 20A) (7.17)

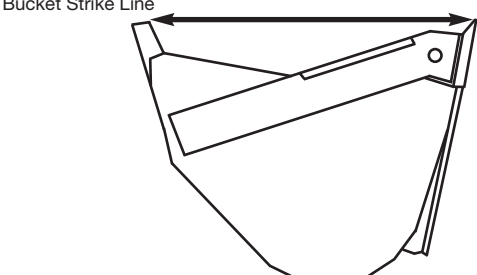
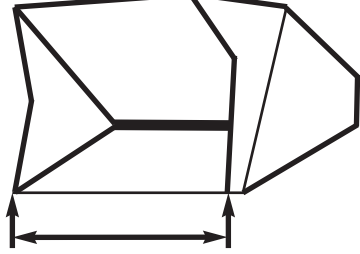
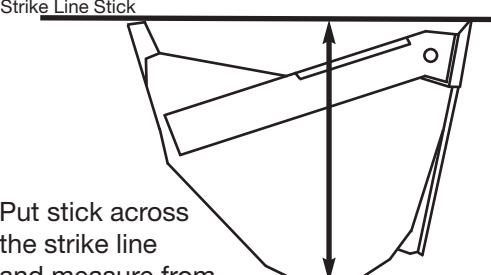
REMEASUREMENT

VEHICLE INFORMATION

PLACARD INFORMATION

COMMERCIAL LICENSE PLATE NO.	MAKE	YEAR	VIN / ENGINE NO.	BORO	DISTRICT	STORM	SEQUENCE
------------------------------	------	------	------------------	------	----------	-------	----------

METHOD OF MEASUREMENT

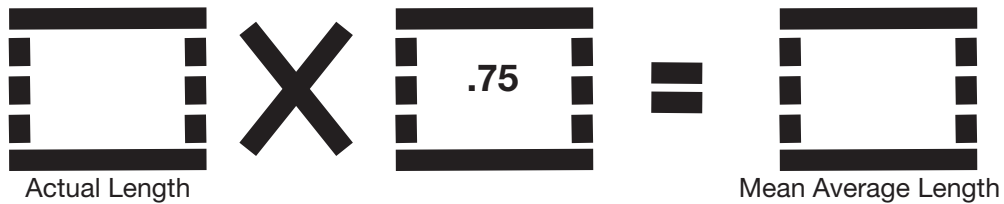
LENGTH	WIDTH	DEPTH
 <p>Bucket Strike Line</p> <p>Measure from the top of cutting edge to the back of the Bucket Strike Line.</p>	 <p>Face bucket, measure from inside left to right.</p>	 <p>Strike Line Stick</p> <p>Put stick across the strike line and measure from under the stick to the deepest part of the bucket.</p>

REMEASUREMENT OF CAPACITY

COMPUTING THE CUBIC YARDS OF A BUCKET IS DONE AS FOLLOWS:

STEP 1) Calculate the mean average length using capacity the following formula:

$$\text{Actual Length} \times .75 = \text{Mean Average Length}$$



STEP 2) Calculate cubic yards of bucket capacity using the following formula:

$$\text{Mean Average Length} \times \text{Width} \times \text{Depth} = \text{Total Cubic Yards of Bucket Capacity}$$



MEASURING LOCATION	DISTRICT	START TIME	FINISH TIME
MEASURER'S NAME (PRINT)	SIGNATURE	BADGE NO.	DISTRICT

REASON FOR REJECTION UPON REMEASUREMENT:

EXHIBIT F:

City Standard Service Contract Terms and Conditions

PIN: 82717CC0025

**CITY OF NEW YORK DEPARTMENT OF SANITATION
SERVICE AGREEMENT**

APPENDIX A

**The City's General Provisions Governing Contracts for
Consultants, Professional, and Technical Services**

TABLE OF CONTENTS

ARTICLE 1.	DEFINITIONS	1
Section 1.01	Definitions.....	1
ARTICLE 2.	REPRESENTATIONS AND WARRANTIES.....	2
Section 2.01	Procurement of Agreement	2
Section 2.02	Conflicts of Interest	2
Section 2.03	[INTENTIONALLY OMITTED]	
Section 2.04	VENDEX.....	2
Section 2.05	[INTENTIONALLY OMITTED]	
Section 2.06	[INTENTIONALLY OMITTED]	
Section 2.07	Unlawful Discriminatory Practices: Admin. Code § 6-123	3
Section 2.08	Bankruptcy and Reorganization	3
ARTICLE 3.	ASSIGNMENT AND SUBCONTRACTING	3
Section 3.01	Assignment.....	3
Section 3.02	Subcontracting	3
ARTICLE 4.	LABOR PROVISIONS	5
Section 4.01	Independent Contractor Status	5
Section 4.02	Employees.....	5
Section 4.03	Removal of Individuals Performing Work	5
Section 4.04	Minimum Wage	5
Section 4.05	[INTENTIONALLY OMITTED]	
Section 4.06	[INTENTIONALLY OMITTED]	
Section 4.07	[INTENTIONALLY OMITTED]	
ARTICLE 5.	RECORDS, AUDITS, REPORTS, AND INVESTIGATIONS	6
Section 5.01	Books and Records	6
Section 5.02	Retention of Records	6
Section 5.03	Inspection	6
Section 5.04	Audit	6
Section 5.05	[INTENTIONALLY OMITTED]	
Section 5.06	Electronic Records	7
Section 5.07	Investigations Clause	7
Section 5.08	[INTENTIONALLY OMITTED]	

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

ARTICLE 6.	[INTENTIONALLY OMITTED]	
ARTICLE 7.	INSURANCE	9
Section 7.01	Agreement to Insure.....	9
Section 7.02	Commercial General Liability Insurance	9
Section 7.03	[INTENTIONALLY OMITTED]	
Section 7.04	Workers' Compensation, Disability Benefits, and Employer's Liability Insurance.....	9
Section 7.05	Unemployment Insurance	9
Section 7.06	Business Automobile Liability Insurance.....	10
Section 7.07	General Requirements for Insurance Coverage and Policies.....	10
Section 7.08	Proof of Insurance	10
Section 7.09	Miscellaneous.....	11
ARTICLE 8.	PROTECTION OF PERSONS AND PROPERTY AND INDEMNIFICATION	12
Section 8.01	Reasonable Precautions	12
Section 8.02	Protection of City Property	12
Section 8.03	Indemnification	12
Section 8.04	[INTENTIONALLY OMITTED]	
Section 8.05	Indemnification Obligations Not Limited By Insurance Obligation	12
Section 8.06	Actions By or Against Third Parties	12
Section 8.07	Withholding of Payments	13
Section 8.08	No Third Party Rights.....	13
ARTICLE 9.	CONTRACT CHANGES	13
Section 9.01	Contract Changes	13
Section 9.02	[INTENTIONALLY OMITTED]	
ARTICLE 10.	TERMINATION, DEFAULT, AND REDUCTIONS IN FUNDING	13
Section 10.01	Termination by the City Without Cause	13
Section 10.02	[INTENTIONALLY OMITTED]	
Section 10.03	Contractor Default	14
Section 10.04	Force Majeure	15
Section 10.05	Procedures for Termination.....	15
Section 10.06	Miscellaneous Provisions.....	16
ARTICLE 11.	PROMPT PAYMENT AND ELECTRONIC FUNDS TRANSFER	16
Section 11.01	Prompt Payment	16
Section 11.02	Electronic Funds Transfer	17
ARTICLE 12.	CLAIMS	17
Section 12.01	Choice of Law.....	17
Section 12.02	Jurisdiction and Venue.....	17
Section 12.03	Resolution of Disputes	17
Section 12.04	Claims and Actions	21
Section 12.05	No Claim Against Officers, Agents or Employees.....	21
Section 12.06	General Release	21
Section 12.07	No Waiver.....	22

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

ARTICLE 13.	APPLICABLE LAWS	22
Section 13.01	PPB Rules	22
Section 13.02	All Legal Provisions Deemed Included	22
Section 13.03	Severability / Unlawful Provisions Deemed Stricken	22
Section 13.04	Compliance With Laws.....	22
Section 13.05	[INTENTIONALLY OMITTED]	
Section 13.06	[INTENTIONALLY OMITTED]	
Section 13.07	Participation in an International Boycott.....	22
Section 13.08	MacBride Principles	23
Section 13.09	[INTENTIONALLY OMITTED]	
Section 13.10	[INTENTIONALLY OMITTED]	
ARTICLE 14.	MISCELLANEOUS PROVISIONS	23
Section 14.01	Conditions Precedent.....	23
Section 14.02	Merger	23
Section 14.03	Headings	23
Section 14.04	Notice	23
	WHISTLEBLOWER PROTECTION EXPANSION ACT RIDER.....	25

**CITY OF NEW YORK DEPARTMENT OF SANITATION
SERVICE AGREEMENT**

APPENDIX A

**The City's General Provisions Governing Contracts for
Consultants, Professional, and Technical Services**

ARTICLE 1. DEFINITIONS

Section 1.01 Definitions

The following words and expressions, or pronouns used in their stead, shall, wherever they appear in this Agreement, be construed as follows, unless a different meaning is clear from the context:

A. "Agency Chief Contracting Officer" or "ACCO" shall mean the position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the City Chief Procurement Officer.

B. "Agreement" shall mean the various documents, including this Appendix A, that constitute the contract between the Contractor and the City.

C. "City" shall mean The City of New York.

D. "City Chief Procurement Officer" or "CCPO" shall mean the position delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCOs.

E. "Commissioner" or "Agency Head" shall mean the head of the Department or his or her duly authorized representative. The term "duly authorized representative" shall include any person or persons acting within the limits of his or her authority.

F. "Comptroller" shall mean the Comptroller of the City of New York.

G. "Contractor" shall mean the entity entering into this Agreement with the Department.

H. "Days" shall mean calendar days unless otherwise specifically noted to mean business days.

I. "Department" or "Agency" shall mean the City agency that has entered into this Agreement.

J. "Law" or "Laws" shall mean the New York City Charter ("Charter"), the New York City Administrative Code ("Admin. Code"), a local rule of the City of New York, the Constitutions of the United States and the State of New York, a statute of the United States or of the State of New York and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

K. "Procurement Policy Board" or "PPB" shall mean the board established pursuant to Charter § 311 whose function is to establish comprehensive and consistent procurement policies and rules which have broad application throughout the City.

L. "PPB Rules" shall mean the rules of the Procurement Policy Board as set forth in Title 9 of the Rules of the City of New York ("RCNY"), § 1-01 et seq.

M. "State" shall mean the State of New York.

ARTICLE 2. REPRESENTATIONS AND WARRANTIES

Section 2.01 Procurement of Agreement

A. The Contractor represents and warrants that no person or entity (other than an officer, partner, or employee working solely for the Contractor) has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage fee, contingent fee or any other direct or indirect compensation. Notwithstanding the preceding sentence, the Contractor may retain consultants to draft proposals, negotiate contracts, and perform other similar services. The Contractor further represents and warrants that no payment, gift, or thing of value has been made, given, or promised to obtain this or any other agreement between the parties. The Contractor makes such representations and warranties to induce the City to enter into this Agreement and the City relies upon such representations and warranties in the execution of this Agreement.

B. For any breach or violation of the representations and warranties set forth in Paragraph A above, the Commissioner shall have the right to annul this Agreement without liability, entitling the City to recover all monies paid to the Contractor; and the Contractor shall not make claim for, or be entitled to recover, any sum or sums due under this Agreement. The rights and remedies of the City provided in this Section are not exclusive and are in addition to all other rights and remedies allowed by Law or under this Agreement.

Section 2.02 Conflicts of Interest

A. The Contractor represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which conflicts in any manner or degree with the performance of this Agreement. The Contractor further represents and warrants that no person having such interest or possible interest shall be employed by or connected with the Contractor in the performance of this Agreement.

B. Consistent with Charter § 2604 and other related provisions of the Charter, the Admin. Code and the New York State Penal Law, no elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or in part, from the City Treasury, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or other entity in which he or she is, directly or indirectly, interested; nor shall any such official, officer, employee, or person have any interest in, or in the proceeds of, this Agreement. This Paragraph B shall not prevent directors, officers, members, partners, or employees of the Contractor from participating in decisions relating to this Agreement where their sole personal interest is in the Contractor.

C. The Contractor shall not employ a person or permit a person to serve as a member of the Board of Directors or as an officer of the Contractor if such employment or service would violate Chapter 68 of the Charter.

Section 2.03 [Intentionally Omitted]

Section 2.04 VENDEX

The Contractor represents and warrants that it and its principals have duly executed and filed all required VENDEX Questionnaires and, if applicable, Certificates of No Change, pursuant to PPB Rule § 2-08 and in accordance with the policies and procedures of the Mayor's Office of Contract Services. The Contractor understands that the Department's reliance upon the completeness and veracity of the information stated therein is a material condition to the execution of this Agreement, and represents and warrants that the information it and its principals have provided is accurate and complete.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

Section 2.05 [Intentionally Omitted]

Section 2.06 [Intentionally Omitted]

Section 2.07 Unlawful Discriminatory Practices: Admin. Code § 6-123

As required by Admin. Code § 6-123, the Contractor will not engage in any unlawful discriminatory practice as defined in and pursuant to the terms of Title 8 of the City Administrative Code. The Contractor shall include a provision in any agreement with a first-level subcontractor performing services under this Agreement for an amount in excess of Fifty Thousand Dollars (\$50,000) that such subcontractor shall not engage in any such unlawful discriminatory practice.

Section 2.08 Bankruptcy and Reorganization

In the event that the Contractor files for bankruptcy or reorganization under Chapter Seven or Chapter Eleven of the United States Bankruptcy Code, the Contractor shall disclose such action to the Department within seven (7) days of filing.

ARTICLE 3. ASSIGNMENT AND SUBCONTRACTING

Section 3.01 Assignment

A. The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, or the right to execute it, or the right, title or interest in or to it or any part of it, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Agreement, without the prior written consent of the Commissioner. The giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. Any such assignment, transfer, conveyance or other disposition without such written consent shall be void.

B. Before entering into any such assignment, transfer, conveyance or other disposal of this Agreement, the Contractor shall submit a written request for approval to the Department giving the name and address of the proposed assignee. The proposed assignee's VENDEX questionnaire must be submitted within thirty (30) Days after the ACCO has granted preliminary written approval of the proposed assignee, if required. Upon the request of the Department, the Contractor shall provide any other information demonstrating that the proposed assignee has the necessary facilities, skill, integrity, past experience and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The Agency shall make a final determination in writing approving or disapproving the assignee after receiving all requested information.

C. Failure to obtain the prior written consent to such an assignment, transfer, conveyance, or other disposition may result in the revocation and annulment of this Agreement, at the option of the Commissioner. The City shall thereupon be relieved and discharged from any further liability and obligation to the Contractor, its assignees, or transferees, who shall forfeit all monies earned under this Agreement, except so much as may be necessary to pay the Contractor's employees.

D. The provisions of this Section shall not hinder, prevent, or affect an assignment by the Contractor for the benefit of its creditors made pursuant to the Laws of the State.

E. This Agreement may be assigned, in whole or in part, by the City to any corporation, agency, or instrumentality having authority to accept such assignment. The City shall provide the Contractor with written notice of any such assignment.

Section 3.02 Subcontracting

A. The Contractor shall not enter into any subcontract for an amount greater than Five Thousand Dollars (\$5,000) for the performance of its obligations, in whole or in part, under this

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

Agreement without the prior approval by the Department of the subcontractor. The Department hereby grants approval for all subcontracts for an amount that does not exceed Five Thousand Dollars (\$5,000). The Contractor must submit monthly reports to the Department indicating all such subcontractors. All subcontracts must be in writing.

B. Prior to entering into any subcontract for an amount greater than Five Thousand Dollars (\$5,000), the Contractor shall submit a written request for the approval of the proposed subcontractor to the Department giving the name and address of the proposed subcontractor and the portion of the services that it is to perform and furnish. At the request of the Department, a copy of the proposed subcontract shall be submitted to the Department. The proposed subcontractor's VENDEX Questionnaire must be submitted, if required, within thirty (30) Days after the ACCO has granted preliminary approval of the proposed subcontractor. Upon the request of the Department, the Contractor shall provide any other information demonstrating that the proposed subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The Agency shall make a final determination in writing approving or disapproving the subcontractor after receiving all requested information. For proposed subcontracts that do not exceed Twenty-five Thousand Dollars (\$25,000), the Department's approval shall be deemed granted if the Department does not issue a written approval or disapproval within forty-five (45) Days of the Department's receipt of the written request for approval or, if applicable, within forty-five (45) Days of the Department's acknowledged receipt of fully completed VENDEX Questionnaires for the subcontractor.

C. All subcontracts shall contain provisions specifying that:

1. The work performed by the subcontractor must be in accordance with the terms of the agreement between the City and the Contractor;

2. Nothing contained in the agreement between the Contractor and the subcontractor shall impair the rights of the City;

3. Nothing contained in the agreement between the Contractor and the subcontractor, or under the agreement between the City and the Contractor, shall create any contractual relation between the subcontractor and the City; and

4. The subcontractor specifically agrees to be bound by Section 4.07 and Article 5 of this Appendix A and specifically agrees that the City may enforce such provisions directly against the subcontractor as if the City were a party to the subcontract.

D. The Contractor agrees that it is as fully responsible to the Department for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by such subcontractors as it is for the acts and omissions of any person directly employed by it.

E. For determining the value of a subcontract, all subcontracts with the same subcontractor shall be aggregated.

F. The Department may revoke the approval of a subcontractor granted or deemed granted pursuant to Paragraphs (A) and (B) of this section if revocation is deemed to be in the interest of the City in writing on no less than ten (10) Days notice unless a shorter period is warranted by considerations of health, safety, integrity issues or other similar factors. Upon the effective date of such revocation, the Contractor shall cause the subcontractor to cease all work under the Agreement. The City shall not incur any further obligation for services performed by such subcontractor pursuant to this Agreement beyond the effective date of the revocation. The City shall pay for services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.

G. The Department's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties and liabilities under this Agreement. At the request of the Department, the Contractor shall provide the Department a copy of any subcontract.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

H. Individual employer-employee contracts are not subcontracts subject to the requirements of this Section.

ARTICLE 4. LABOR PROVISIONS

Section 4.01 Independent Contractor Status

The Contractor and the Department agree that the Contractor is an independent contractor and not an employee of the Department or the City. Accordingly, neither the Contractor nor its employees or agents will hold themselves out as, or claim to be, officers or employees of the City, or of any department, agency or unit of the City, by reason of this Agreement, and they will not, by reason of this Agreement, make any claim, demand or application to or for any right or benefit applicable to an officer or employee of the City, including, but not limited to, Workers' Compensation coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit.

Section 4.02 Employees

All persons who are employed by the Contractor and all consultants or independent contractors who are retained by the Contractor to perform services under this Agreement are neither employees of the City nor under contract with the City. The Contractor, and not the City, is responsible for their work, direction, compensation, and personal conduct while engaged under this Agreement. Nothing in the Agreement shall impose any liability or duty on the City for the acts, omissions, liabilities or obligations of the Contractor, or any officer, employee, or agent of the Contractor, or for taxes of any nature, or for any right or benefit applicable to an officer or employee of the City, including, but not limited to, Workers' Compensation coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit. Except as specifically stated in this Agreement, nothing in this Agreement shall impose any liability or duty on the City to any person or entity.

Section 4.03 Removal of Individuals Performing Work

The Contractor shall not have anyone perform work under this Agreement who is not competent, faithful and skilled in the work for which he or she shall be employed. Whenever the Commissioner shall inform the Contractor, in writing, that any individual is, in his or her opinion, incompetent, unfaithful, or unskilled, such individual shall no longer perform work under this Agreement. Prior to making a determination to direct a Contractor that an individual shall no longer perform work under this Agreement, the Commissioner shall provide the Contractor an opportunity to be heard on no less than five (5) Days' written notice. The Commissioner may direct the Contractor not to allow the individual from performing work under the Agreement pending the opportunity to be heard and the Commissioner's determination.

Section 4.04 Minimum Wage

Except for those employees whose minimum wage is required to be fixed pursuant to Sections 220 or 230 of the New York State Labor Law or by City Administrative Code § 6-109, all persons employed by the Contractor in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by Law, not less than the minimum wage as prescribed by Law. Any breach of this Section shall be deemed a material breach of this Agreement.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

Section 4.05 [Intentionally Omitted]

Section 4.06 [Intentionally Omitted]

Section 4.07 [Intentionally Omitted]

**ARTICLE 5. RECORDS,
AUDITS, REPORTS, AND INVESTIGATIONS**

Section 5.01 Books and Records

The Contractor agrees to maintain separate and accurate books, records, documents and other evidence, and to utilize appropriate accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

Section 5.02 Retention of Records

The Contractor agrees to retain all books, records, and other documents relevant to this Agreement, including those required pursuant to Section 5.01, for six years after the final payment or expiration or termination of this Agreement, or for a period otherwise prescribed by Law, whichever is later. In addition, if any litigation, claim, or audit concerning this Agreement has commenced before the expiration of the six-year period, the records must be retained until the completion of such litigation, claim, or audit. Any books, records and other documents that are created in an electronic format in the regular course of business may be retained in an electronic format. Any books, records, and other documents that are created in the regular course of business as a paper copy may be retained in an electronic format provided that the records satisfy the requirements of New York Civil Practice Law and Rules ("CPLR") 4539(b), including the requirement that the reproduction is created in a manner "which does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes." Furthermore, the Contractor agrees to waive any objection to the admissibility of any such books, records or other documents on the grounds that such documents do not satisfy CPLR 4539(b).

Section 5.03 Inspection

A. At any time during the Agreement or during the record retention period set forth in section 5.02, the City, including the Department and the Department's Office of the Inspector General, as well as City, State and federal auditors and any other persons duly authorized by the City shall, upon reasonable notice, have full access to and the right to examine and copy all books, records, and other documents maintained or retained by or on behalf of the Contractor pursuant to this Article. Notwithstanding any provision herein regarding notice of inspection, all books, records and other documents of the Contractor kept pursuant to this Agreement shall be subject to immediate inspection, review, and copying by the Department's Office of the Inspector General and/or the Comptroller without prior notice and at no additional cost to the City. The Contractor shall make such books, records and other documents available for inspection in the City of New York or shall reimburse the City for expenses associated with the out-of-City inspection.

B. The Department shall have the right to have representatives of the Department or of the City, State or federal government present to observe the services being performed.

C. The Contractor shall not be entitled to final payment until the Contractor has complied with any request for inspection or access given under this Section.

Section 5.04 Audit

A. This Agreement and all books, records, documents, and other evidence required to be maintained or retained pursuant to this Agreement, including all vouchers or invoices presented for

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

payment and the books, records, and other documents upon which such vouchers or invoices are based (e.g., reports, cancelled checks, accounts, and all other similar material), are subject to audit by (i) the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, (ii) the State, (iii) the federal government, and (iv) other persons duly authorized by the City. Such audits may include examination and review of the source and application of all funds whether from the City, the State, the federal government, private sources or otherwise.

B. Audits by the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, are performed pursuant to the powers and responsibilities conferred by the Charter and the Admin. Code, as well as all orders, rules, and regulations promulgated pursuant to the Charter and Admin. Code.

C. The Contractor shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the Department and by the Comptroller in the exercise of his/her powers under Law.

D. The Contractor shall not be entitled to final payment until the Contractor has complied with the requirements of this Section.

Section 5.05 [Intentionally Omitted]

Section 5.06 Electronic Records

As used in this Appendix A, the terms books, records, documents, and other data refer to electronic versions as well as hard copy versions.

Section 5.07 Investigations Clause

A. The Contractor agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State or City agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

B. 1. If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, or State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the Laws of the State, or;

2. If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

C. 1. The Commissioner or Agency Head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) Days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

2. If any non-governmental party to the hearing requests an adjournment, the Commissioner or Agency Head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to Paragraph E below without the City incurring any penalty or damages for delay or otherwise.

D. The penalties that may attach after a final determination by the Commissioner or Agency Head may include but shall not exceed:

1. The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

2. The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

E. The Commissioner or Agency Head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Paragraphs (1) and (2) below. He or she may also consider, if relevant and appropriate, the criteria established in Paragraphs (3) and (4) below, in addition to any other information that may be relevant and appropriate:

1. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

2. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

3. The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

4. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Paragraph D above, provided that the party or entity has given actual notice to the Commissioner or Agency Head upon the acquisition of the interest, or at the hearing called for in Paragraph (C)(1) above gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

F. Definitions

1. The term "license" or "permit" as used in this Section shall be defined as a license, permit, franchise, or concession not granted as a matter of right.

2. The term "person" as used in this Section shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

3. The term "entity" as used in this Section shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City, or otherwise transacts business with the City.

4. The term "member" as used in this Section shall be defined as any person associated with another person or entity as a partner, director, officer, principal, or employee.

G. In addition to and notwithstanding any other provision of this Agreement, the Commissioner or Agency Head may in his or her sole discretion terminate this Agreement upon not less than three (3) Days written notice in the event the Contractor fails to promptly report in writing to the City Commissioner of Investigation any solicitation of money, goods, requests for future employment or other benefits or thing of value, by or on behalf of any employee of the City or other person or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the Contractor, or affecting the performance of this Agreement.

Section 5.08 [Intentionally Omitted]

ARTICLE 6. [INTENTIONALLY OMITTED]

ARTICLE 7. INSURANCE

Section 7.01 Agreement to Insure

The Contractor shall not commence performing services under this Agreement unless and until all insurance required by this Article is in effect, and shall ensure continuous insurance coverage in the manner, form, and limits required by this Article throughout the term of the Agreement.

Section 7.02 Commercial General Liability Insurance

A. The Contractor shall maintain Commercial General Liability Insurance covering the Contractor as Named Insured and the City as an Additional Insured in the amount of at least One Million Dollars (\$1,000,000) per occurrence or such higher amount as may be specified in Schedule A. Such insurance shall protect the City and the Contractor from claims for property damage and/or bodily injury, including death that may arise from any of the operations under this Agreement. Coverage under this insurance shall be at least as broad as that provided by the most recently issued Insurance Services Office ("ISO") Form CG 0001 and shall be "occurrence" based rather than "claims-made."

B. Such Commercial General Liability Insurance shall name the City, together with its officials and employees, as an Additional Insured with coverage at least as broad as the most recently issued ISO Form CG 20 10.

Section 7.03 [Intentionally Omitted]

Section 7.04 Workers' Compensation, Disability Benefits, and Employer's Liability Insurance

The Contractor shall maintain, and ensure that each subcontractor maintains, Workers' Compensation Insurance, Disability Benefits Insurance, and Employer's Liability Insurance in accordance with the Laws of the State on behalf of, or with regard to, all employees providing services under this Agreement.

Section 7.05 Unemployment Insurance

To the extent required by Law, the Contractor shall provide Unemployment Insurance for its employees.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

Section 7.06 Business Automobile Liability Insurance

A. If vehicles are used in the provision of services under this Agreement, then the Contractor shall maintain Business Automobile Liability insurance in the amount of at least One Million Dollars (\$1,000,000) each accident or such higher amount as may be specified in Schedule A, combined single limit for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA0001.

B. If vehicles are used for transporting hazardous materials, the Business Automobile Liability Insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

Section 7.07 General Requirements for Insurance Coverage and Policies

A. All required insurance policies shall be maintained with companies that may lawfully issue the required policy and have an A.M. Best rating of at least A- / "VII" or a Standard and Poor's rating of at least A, unless prior written approval is obtained from the City Law Department.

B. All insurance policies shall be primary (and non-contributing) to any insurance or self-insurance maintained by the City.

C. The Contractor shall be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which such policies are subject, whether or not the City is an insured under the policy.

D. There shall be no self-insurance program with regard to any insurance required under this Article unless approved in writing by the Commissioner. Any such self-insurance program shall provide the City with all rights that would be provided by traditional insurance required under this Article, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

E. The City's limits of coverage for all types of insurance required under this Article shall be the greater of (i) the minimum limits set forth in this Article or (ii) the limits provided to the Contractor as Named Insured under all primary, excess, and umbrella policies of that type of coverage.

Section 7.08 Proof of Insurance

A. For Workers' Compensation Insurance, Disability Benefits Insurance, and Employer's Liability Insurance, the Contractor shall file one of the following within ten (10) Days of award of this Agreement. ACORD forms are not acceptable proof of workers' compensation coverage.

1. C-105.2 Certificate of Workers' Compensation Insurance;
2. U-26.3 -- State Insurance Fund Certificate of Workers' Compensation Insurance;
3. Request for WC/DB Exemption (Form CE-200);
4. Equivalent or successor forms used by the New York State Workers' Compensation Board; or
5. Other proof of insurance in a form acceptable to the City.

B. For each policy required under this Agreement, except for Workers' Compensation Insurance, Disability Benefits Insurance, Employer's Liability Insurance, and Unemployment Insurance, the Contractor shall file a Certificate of Insurance with the Department within ten (10) Days of award of this Agreement. All Certificates of Insurance shall be (a) in a form acceptable to the City and certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (b) accompanied by the endorsement in the Contractor's general liability policy by which the City has been

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

made an additional insured pursuant to Section 7.02(B). All Certificate(s) of Insurance shall be accompanied by either a duly executed "Certification by Broker" in the form attached to this Appendix A or copies of all policies referenced in the Certificate of Insurance. If complete policies have not yet been issued, binders are acceptable, until such time as the complete policies have been issued, at which time such policies shall be submitted.

C. Certificates of Insurance confirming renewals of insurance shall be submitted to the Commissioner prior to the expiration date of coverage of policies required under this Article. Such Certificates of Insurance shall comply with the requirements of Section 7.08 (A) and Section 7.08(B), as applicable.

D. The Contractor shall provide the City with a copy of any policy required under this Article upon the demand for such policy by the Commissioner or the New York City Law Department.

E. Acceptance by the Commissioner of a certificate or a policy does not excuse the Contractor from maintaining policies consistent with all provisions of this Article (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

F. In the event the Contractor receives notice, from an insurance company or other person, that any insurance policy required under this Article shall expire or be cancelled or terminated for any reason, the Contractor shall immediately forward a copy of such notice to the Commissioner of the New York City Department of Sanitation, 125 Worth St., Room 720, New York, NY 10013, to the Agency Chief Contracting Officer, New York City Department of Sanitation, 51 Chambers St., Room 801, Insurance Unit, New York, NY 10007, and the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007.

Section 7.09 Miscellaneous

A. Whenever notice of loss, damage, occurrence, accident, claim or suit is required under a general liability policy maintained in accordance with this Article, the Contractor shall provide the insurer with timely notice thereof on behalf of the City. Such notice shall be given even where the Contractor may not have coverage under such policy (for example, where one of Contractor's employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the City of New York as Additional Insured" and contain the following information: the number of the insurance policy; the name of the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. The Contractor shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. If the Contractor fails to comply with the requirements of this paragraph, the Contractor shall indemnify the City for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City.

B. The Contractor's failure to maintain any of the insurance required by this Article shall constitute a material breach of this Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

C. Insurance coverage in the minimum amounts required in this Article shall not relieve the Contractor or its subcontractors of any liability under this Agreement, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this Agreement or Law.

D. The Contractor waives all rights against the City, including its officials and employees for any damages or losses that are covered under any insurance required under this Article (whether or not

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of the Contractor and/or its subcontractors in the performance of this Agreement.

E. In the event the Contractor requires any subcontractor to procure insurance with regard to any operations under this Agreement and requires such subcontractor to name the Contractor as an additional insured under such insurance, the Contractor shall ensure that such entity also name the City, including its officials and employees, as an additional insured with coverage at least as broad as the most recently issued ISO form CG 20 26.

**ARTICLE 8. PROTECTION OF PERSONS AND PROPERTY
AND INDEMNIFICATION**

Section 8.01 Reasonable Precautions

The Contractor shall take all reasonable precautions to protect all persons and the property of the City and of others from damage, loss or injury resulting from the Contractor's and/or its subcontractors' operations under this Agreement.

Section 8.02 Protection of City Property

The Contractor assumes the risk of, and shall be responsible for, any loss or damage to City property, including property and equipment leased by the City, used in the performance of this Agreement, where such loss or damage is caused by any tortious act, or failure to comply with the provisions of this Agreement or of Law by the Contractor, its officers, employees, agents or subcontractors.

Section 8.03 Indemnification

The Contractor shall defend, indemnify and hold the City, its officers and employees harmless from any and all claims or judgments for damages on account of any injuries or death to any person or damage to any property and from costs and expenses to which the City, its officers and employees may be subjected or which it may suffer or incur allegedly arising out of or in connection with any operations of the Contractor and/or its subcontractors to the extent resulting from any negligent act of commission or omission, any intentional tortious act, or failure to comply with the provisions of this Agreement or of the Laws. Insofar as the facts or Law relating to any claim would preclude the City from being completely indemnified by the Contractor, the City shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.04 [Intentionally Omitted]

Section 8.05 Indemnification Obligations Not Limited By Insurance Obligation

The indemnification provisions set forth in this Article shall not be limited in any way by the Contractor's obligations to obtain and maintain insurance as provided in this Agreement.

Section 8.06 Actions By or Against Third Parties

A. In the event any claim is made or any action brought in any way relating to Agreement, other than an action between the City and the Contractor, the Contractor shall diligently render to the City without additional compensation all assistance which the City may reasonably require of the Contractor.

B. The Contractor shall report to the Department in writing within five (5) business Days of the initiation by or against the Contractor of any legal action or proceeding in connection with or relating to this Agreement.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

Section 8.07 Withholding of Payments

A. In the event that any claim is made or any action is brought against the City for which the Contractor may be required to indemnify the City pursuant to this Agreement, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the said claim or action.

B. In the event that any City property is lost or damaged as set forth in Section 8.02, except for normal wear and tear, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover such loss or damage.

C. The City shall not, however, impose a setoff in the event that an insurance company that provided liability insurance pursuant to Article 7 above has accepted the City's tender of the claim or action without a reservation of rights.

D. The Department may, at its option, withhold for purposes of set-off any monies due to the Contractor under this Agreement up to the amount of any disallowances or questioned costs resulting from any audits of the Contractor or to the amount of any overpayment to the Contractor with regard to this Agreement.

E. The rights and remedies of the City provided for in this Section shall not be exclusive and are in addition to any other rights and remedies provided by Law or this Agreement.

Section 8.08 No Third Party Rights

The provisions of this Agreement shall not be deemed to create any right of action in favor of third parties against the Contractor or the City or their respective officers and employees.

ARTICLE 9. CONTRACT CHANGES

Section 9.01 Contract Changes

Changes to this Agreement may be made only as duly authorized by the ACCO or his or her designee and in accordance with the PPB Rules. Any amendment or change to this Agreement shall not be valid unless made in writing and signed by authorized representatives of both parties. Contractors deviating from the requirements of this Agreement without a duly approved and executed change order document, or written contract modification or amendment, do so at their own risk.

Section 9.02 [Intentionally Omitted]

ARTICLE 10. TERMINATION, DEFAULT, AND REDUCTIONS IN FUNDING

Section 10.01 Termination by the City Without Cause

A. The City shall have the right to terminate this Agreement, in whole or in part, without cause, in accordance with the provisions of Section 10.05.

B. If the City terminates this Agreement pursuant to this Section, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date set by the City pursuant to Section 10.05. The City shall pay for services provided in accordance with this Agreement prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

Section 10.02 [Intentionally Omitted]

Section 10.03 Contractor Default

- A. The City shall have the right to declare the Contractor in default:
1. Upon a breach by the Contractor of a material term or condition of this Agreement, including unsatisfactory performance of the services;
 2. Upon insolvency or the commencement of any proceeding by or against the Contractor, either voluntarily or involuntarily, under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of the Contractor for the benefit of creditors;
 3. If the Contractor refuses or fails to proceed with the services under the Agreement when and as directed by the Commissioner;
 4. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted or convicted after execution of the Agreement under any state or federal law of any of the following:
 - a. a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;
 - b. fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;
 - c. a criminal violation of any state or federal antitrust law;
 - d. violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
 - e. conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or
 - f. an offense indicating a lack of business integrity that seriously and directly affects responsibility as a City vendor.
 5. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or
 6. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fail to make a required material statement in any bid, proposal, or application for City or other government work.
- B. The right to declare the Contractor in default shall be exercised by sending the Contractor a written notice of the conditions of default, signed by the Commissioner, setting forth the ground or grounds upon which such default is declared ("Notice to Cure"). The Contractor shall have ten (10) Days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default. The Commissioner may temporarily suspend services under the Agreement pending the outcome of the default proceedings pursuant to this Section.
- C. If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, the Commissioner may declare the Contractor in default pursuant to this Section.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

Before the Commissioner may exercise his or her right to declare the Contractor in default, the Commissioner shall give the Contractor an opportunity to be heard upon not less than five (5) business days notice. The Commissioner may, in his or her discretion, provide for such opportunity to be in writing or in person. Such opportunity to be heard shall not occur prior to the end of the cure period but notice of such opportunity to be heard may be given prior to the end of the cure period and may be given contemporaneously with the Notice to Cure.

D. After the opportunity to be heard, the Commissioner may terminate the Agreement, in whole or in part, upon finding the Contractor in default pursuant to this Section, in accordance with the provisions of Section 10.05.

E. The Commissioner, after declaring the Contractor in default, may have the services under the Agreement completed by such means and in such manner, by contract with or without public letting, or otherwise, as he or she may deem advisable in accordance with applicable PPB Rules. After such completion, the Commissioner shall certify the expense incurred in such completion, which shall include the cost of re-letting. Should the expense of such completion, as certified by the Commissioner, exceed the total sum which would have been payable under the Agreement if it had been completed by the Contractor, any excess shall be promptly paid by the Contractor upon demand by the City. The excess expense of such completion, including any and all related and incidental costs, as so certified by the Commissioner, and any liquidated damages assessed against the Contractor, may be charged against and deducted out of monies earned by the Contractor.

Section 10.04 Force Majeure

A. For purposes of this Agreement, a force majeure event is an act or event beyond the control and without any fault or negligence of the Contractor ("Force Majeure Event"). Such events may include, but are not limited to, fire, flood, earthquake, storm or other natural disaster, civil commotion, war, terrorism, riot, and labor disputes not brought about by any act or omission of the Contractor.

B. In the event the Contractor cannot comply with the terms of the Agreement (including any failure by the Contractor to make progress in the performance of the services) because of a Force Majeure Event, then the Contractor may ask the Commissioner to excuse the nonperformance and/or terminate the Agreement. If the Commissioner, in his or her reasonable discretion, determines that the Contractor cannot comply with the terms of the Agreement because of a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may terminate the Agreement. Such a termination shall be deemed to be without cause.

C. If the City terminates the Agreement pursuant to this Section, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date. The City shall pay for services provided in accordance with this Agreement prior to the termination date. Any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

Section 10.05 Procedures for Termination

A. The Department and/or the City shall give the Contractor written notice of any termination of this Agreement. Such notice shall specify the applicable provision(s) under which the Agreement is terminated and the effective date of the termination. Except as otherwise provided in this Agreement, the notice shall comply with the provisions of this Section. For termination without cause, the effective date of the termination shall not be less than ten (10) Days from the date the notice is personally delivered, or fifteen (15) Days from the date the notice is either sent by certified mail, return receipt requested, or sent by fax and deposited in a post office box regularly maintained by the United States Postal Service in a

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

postage pre-paid envelope. In the case of termination for default, the effective date of the termination shall be as set forth above for a termination without cause or such earlier date as the Commissioner may determine. If the City terminates the Agreement in part, the Contractor shall continue the performance of the Agreement to the extent not terminated.

B. Upon termination or expiration of this Agreement, the Contractor shall comply with the City close-out procedures, including but not limited to:

1. Accounting for and refunding to the Department, within forty-five (45) Days, any unexpended funds which have been advanced to the Contractor pursuant to this Agreement;
2. Furnishing within forty-five (45) Days an inventory to the Department of all equipment, appurtenances and property purchased through or provided under this Agreement and carrying out any Department or City directive concerning the disposition of such equipment, appurtenances and property;
3. Turning over to the Department or its designees all books, records, documents and material specifically relating to this Agreement that the Department has requested be turned over;
4. Submitting to the Department, within ninety (90) Days, a final statement and report relating to the Agreement. The report shall be made by a certified public accountant or a licensed public accountant; and
5. Providing reasonable assistance to the Department in the transition, if any, to a new contractor.

Section 10.06 Miscellaneous Provisions

A. The Commissioner, in addition to any other powers set forth in this Agreement or by operation of Law, may suspend, in whole or in part, any part of the services to be provided under this Agreement whenever in his or her judgment such suspension is required in the best interest of the City. If the Commissioner suspends this Agreement pursuant to this Section, the City shall not incur or pay any further obligation pursuant to this Agreement beyond the suspension date until such suspension is lifted. The City shall pay for services provided in accordance with this Agreement prior to the suspension date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of suspension and falling due during the suspension period shall be paid by the City in accordance with the terms of this Agreement.

B. Notwithstanding any other provisions of this Agreement, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of the Contractor's breach of the Agreement, and the City may withhold payments to the Contractor for the purpose of set-off in the amount of damages due to the City from the Contractor.

C. The rights and remedies of the City provided in this Article shall not be exclusive and are in addition to all other rights and remedies provided by Law or under this Agreement.

ARTICLE 11. PROMPT PAYMENT AND ELECTRONIC FUNDS TRANSFER

Section 11.01 Prompt Payment

A. The prompt payment provisions of PPB Rule § 4-06 are applicable to payments made under this Agreement. The provisions generally require the payment to the Contractor of interest on payments made after the required payment date, as set forth in the PPB Rules.

B. The Contractor shall submit a proper invoice to receive payment, except where the Agreement provides that the Contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

C. Determination of interest due will be made in accordance with the PPB Rules and the applicable rate of interest shall be the rate in effect at the time of payment.

Section 11.02 Electronic Funds Transfer

A. In accordance with Admin. Code § 6-107.1, the Contractor agrees to accept payments under this Agreement from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, the Contractor shall designate one financial institution or other authorized payment agent and shall complete the "EFT Vendor Payment Enrollment Form" available from the Agency or at <http://www.nyc.gov/dof> in order to provide the commissioner of the Department of Finance with information necessary for the Contractor to receive electronic funds transfer payments through the designated financial institution or authorized payment agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Contractor shall constitute full satisfaction by the City for the amount of the payment under this Agreement. The account information supplied by the Contractor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by Law.

B. The Agency Head may waive the application of the requirements of this Section to payments on contracts entered into pursuant to Charter § 315. In addition, the commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the Agency may waive the requirements of this Section for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the best interest of the City.

C. This Section is applicable to contracts valued at Twenty-Five Thousand Dollars (\$25,000) and above.

ARTICLE 12. CLAIMS

Section 12.01 Choice of Law

This Agreement shall be deemed to be executed in the City and State of New York, regardless of the domicile of the Contractor, and shall be governed by and construed in accordance with the Laws of the State of New York (notwithstanding New York choice of law or conflict of law principles) and the Laws of the United States, where applicable.

Section 12.02 Jurisdiction and Venue

The parties agree that any and all claims asserted by or against the City arising under or related to this Agreement shall solely be heard and determined either in the courts of the United States located in the City or in the courts of the State located in the City and County of New York. The parties shall consent to the dismissal and/or transfer of any claims asserted in any other venue or forum to the proper venue or forum. If the Contractor initiates any action in breach of this Section, the Contractor shall be responsible for and shall promptly reimburse the City for any attorneys' fees incurred by the City in removing the action to a proper court consistent with this Section.

Section 12.03 Resolution of Disputes

A. Except as provided in Subparagraphs (A)(1) and (A)(2) below, all disputes between the City and the Contractor that arise under, or by virtue of, this Agreement shall be finally resolved in accordance with the provisions of this Section and PPB Rule § 4-09. This procedure shall be the exclusive means of resolving any such disputes.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

1. This Section shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules or to disputes involving patents, copyrights, trademarks, or trade secrets (as interpreted by the courts of New York State) relating to proprietary rights in computer software, or to termination other than for cause.

2. For construction and construction-related services this Section shall apply only to disputes about the scope of work delineated by the Agreement, the interpretation of Agreement documents, the amount to be paid for extra work or disputed work performed in connection with the Agreement, the conformity of the Contractor's work to the Agreement, and the acceptability and quality of the Contractor's work; such disputes arise when the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head makes a determination with which the Contractor disagrees. For construction, this Section shall not apply to termination of the Agreement for cause or other than for cause.

B. All determinations required by this Section shall be clearly stated, with a reasoned explanation for the determination based on the information and evidence presented to the party making the determination. Failure to make such determination within the time required by this Section shall be deemed a non-determination without prejudice that will allow application to the next level.

C. During such time as any dispute is being presented, heard, and considered pursuant to this Section, the Agreement terms shall remain in full force and effect and, unless otherwise directed by the ACCO or Engineer, the Contractor shall continue to perform work in accordance with the Agreement and as directed by the ACCO or City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. Failure of the Contractor to continue the work as directed shall constitute a waiver by the Contractor of any and all claims being presented pursuant to this Section and a material breach of contract.

D. Presentation of Dispute to Agency Head.

1. Notice of Dispute and Agency Response. The Contractor shall present its dispute in writing ("Notice of Dispute") to the Agency Head within the time specified herein, or, if no time is specified, within thirty (30) Days of receiving written notice of the determination or action that is the subject of the dispute. This notice requirement shall not be read to replace any other notice requirements contained in the Agreement. The Notice of Dispute shall include all the facts, evidence, documents, or other basis upon which the Contractor relies in support of its position, as well as a detailed computation demonstrating how any amount of money claimed by the Contractor in the dispute was arrived at. Within thirty (30) Days after receipt of the complete Notice of Dispute, the ACCO or, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, shall submit to the Agency Head all materials he or she deems pertinent to the dispute. Following initial submissions to the Agency Head, either party may demand of the other the production of any document or other material the demanding party believes may be relevant to the dispute. The requested party shall produce all relevant materials that are not otherwise protected by a legal privilege recognized by the courts of New York State. Any question of relevancy shall be determined by the Agency Head whose decision shall be final. Willful failure of the Contractor to produce any requested material whose relevancy the Contractor has not disputed, or whose relevancy has been affirmatively determined, shall constitute a waiver by the Contractor of its claim.

2. Agency Head Inquiry. The Agency Head shall examine the material and may, in his or her discretion, convene an informal conference with the Contractor and the ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, to resolve the issue by mutual consent prior to reaching a determination. The Agency Head may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

deems fit. The Agency Head's ability to render, and the effect of, a decision hereunder shall not be impaired by any negotiations in connection with the dispute presented, whether or not the Agency Head participated therein. The Agency Head may or, at the request of any party to the dispute, shall compel the participation of any other contractor with a contract related to the work of this Agreement and that contractor shall be bound by the decision of the Agency Head. Any contractor thus brought into the dispute resolution proceeding shall have the same rights and obligations under this Section as the Contractor initiating the dispute.

3. Agency Head Determination. Within thirty (30) Days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Agency Head shall make his or her determination and shall deliver or send a copy of such determination to the Contractor and ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, together with a statement concerning how the decision may be appealed.

4. Finality of Agency Head Decision. The Agency Head's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board ("CDRB") pursuant to this Section. The City may not take a petition to the CDRB. However, should the Contractor take such a petition, the City may seek, and the CDRB may render, a determination less favorable to the Contractor and more favorable to the City than the decision of the Agency Head.

E. Presentation of Dispute to the Comptroller. Before any dispute may be brought by the Contractor to the CDRB, the Contractor must first present its claim to the Comptroller for his or her review, investigation, and possible adjustment.

1. Time, Form, and Content of Notice. Within thirty (30) Days of receipt of a decision by the Agency Head, the Contractor shall submit to the Comptroller and to the Agency Head a Notice of Claim regarding its dispute with the Agency. The Notice of Claim shall consist of (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed and the reason(s) the Contractor contends the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; and (iii) a copy of all materials submitted by the Contractor to the Agency, including the Notice of Dispute. The Contractor may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

2. Agency Response. Within thirty (30) Days of receipt of the Notice of Claim, the Agency shall make available to the Comptroller a copy of all material submitted by the Agency to the Agency Head in connection with the dispute. The Agency may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

3. Comptroller Investigation. The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in Admin. Code §§ 7-201 and 7-203. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the Contractor. Willful failure of the Contractor to produce within fifteen (15) Days any material requested by the Comptroller shall constitute a waiver by the Contractor of its claim. The Comptroller may also schedule an informal conference to be attended by the Contractor, Agency representatives, and any other personnel desired by the Comptroller.

4. Opportunity of Comptroller to Compromise or Adjust Claim. The Comptroller shall have forty-five (45) Days from his or her receipt of all materials referred to in Paragraph (E)(3) above to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the Contractor and the Comptroller, to a maximum of ninety (90) Days from the Comptroller's receipt of all the materials. The Contractor may not

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

present its petition to the CDRB until the period for investigation and compromise delineated in this Paragraph has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the Agreement.

F. Contract Dispute Resolution Board. There shall be a Contract Dispute Resolution Board composed of:

1. the chief administrative law judge of the Office of Administrative Trials and Hearings ("OATH") or his or her designated OATH administrative law judge, who shall act as chairperson, and may adopt operational procedures and issue such orders consistent with this Section as may be necessary in the execution of the CDRB's functions, including, but not limited to, granting extensions of time to present or respond to submissions;

2. the City Chief Procurement Officer ("CCPO") or his or her designee; any designee shall have the requisite background to consider and resolve the merits of the dispute and shall not have participated personally and substantially in the particular matter that is the subject of the dispute or report to anyone who so participated; and

3. a person with appropriate expertise who is not an employee of the City. This person shall be selected by the presiding administrative law judge from a prequalified panel of individuals, established, and administered by OATH, with appropriate background to act as decision-makers in a dispute. Such individuals may not have a contract or dispute with the City or be an officer or employee of any company or organization that does, or regularly represent persons, companies, or organizations having disputes with the City.

G. Petition to CDRB. In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this Section, the Contractor, within thirty (30) Days thereafter, may petition the CDRB to review the Agency Head determination.

1. Form and Content of Petition by the Contractor. The Contractor shall present its dispute to the CDRB in the form of a petition, which shall include (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed, and the reason(s) the Contractor contends that the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; (iii) copies of all materials submitted by the Contractor to the Agency; (iv) a copy of the decision of the Comptroller, if any, and (v) copies of all correspondence with, and material submitted by the Contractor to, the Comptroller's Office. The Contractor shall concurrently submit four complete sets of the petition: one to the Corporation Counsel (Attn: Commercial and Real Estate Litigation Division), and three to the CDRB at OATH's offices, with proof of service on the Corporation Counsel. In addition, the Contractor shall submit a copy of the statement of the substance of the dispute, cited in (i) above, to both the Agency Head and the Comptroller.

2. Agency Response. Within thirty (30) Days of receipt of the petition by the Corporation Counsel, the Agency shall respond to the statement of the Contractor and make available to the CDRB all material it submitted to the Agency Head and Comptroller. Three complete copies of the Agency response shall be submitted to the CDRB at OATH's offices and one to the Contractor. Extensions of time for submittal of the Agency response shall be given as necessary upon a showing of good cause or, upon the consent of the parties, for an initial period of up to thirty (30) Days.

3. Further Proceedings. The CDRB shall permit the Contractor to present its case by submission of memoranda, briefs, and oral argument. The CDRB shall also permit the Agency to present its case in response to the Contractor by submission of memoranda, briefs, and oral argument. If requested by the Corporation Counsel, the Comptroller shall provide reasonable assistance in the preparation of the Agency's case. Neither the Contractor nor the Agency may support its case with any documentation or other material that was not considered by the Comptroller, unless requested by the CDRB. The CDRB, in its discretion, may seek such

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

technical or other expert advice as it shall deem appropriate and may seek, on its own or upon application of a party, any such additional material from any party as it deems fit. The CDRB, in its discretion, may combine more than one dispute between the parties for concurrent resolution.

4. CDRB Determination. Within forty-five (45) Days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of time, not to exceed ninety (90) Days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of this Agreement. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.

5. Notification of CDRB Decision. The CDRB shall send a copy of its decision to the Contractor, the ACCO, the Corporation Counsel, the Comptroller, the CCPO, and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. A decision in favor of the Contractor shall be subject to the prompt payment provisions of the PPB Rules. The required payment date shall be thirty (30) Days after the date the parties are formally notified of the CDRB's decision.

6. Finality of CDRB Decision. The CDRB's decision shall be final and binding on all parties. Any party may seek review of the CDRB's decision solely in the form of a challenge, filed within four months of the date of the CDRB's decision, in a court of competent jurisdiction of the State of New York, County of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such review by the court shall be limited to the question of whether or not the CDRB's decision was made in violation of lawful procedure, was affected by an error of Law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such proceeding that was not presented to the CDRB in accordance with PPB Rules § 4-09.

H. Any termination, cancellation, or alleged breach of the Agreement prior to or during the pendency of any proceedings pursuant to this Section shall not affect or impair the ability of the Agency Head or CDRB to make a binding and final decision pursuant to this Section.

Section 12.04 Claims and Actions

A. Any claim against the City or Department based on this Agreement or arising out of this Agreement that is not subject to dispute resolution under the PPB Rules or this Agreement shall not be made or asserted in any legal proceeding, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims as provided in this Agreement.

B. No action shall be instituted or maintained on any such claims unless such action shall be commenced within six (6) months after the date of filing with the Comptroller of the certificate for the final payment under this Agreement, or within six (6) months of the termination or expiration of this Agreement, or within six (6) months after the accrual of the cause of action, whichever first occurs.

Section 12.05 No Claim Against Officers, Agents or Employees

No claim shall be made by the Contractor against any officer, agent, or employee of the City in their personal capacity for, or on account of, anything done or omitted in connection with this Agreement.

Section 12.06 General Release

The acceptance by the Contractor or its assignees of the final payment under this Agreement, whether by check, wire transfer, or other means, and whether pursuant to invoice, voucher, judgment of

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

any court of competent jurisdiction or any other administrative means, shall constitute and operate as a release of the City from any and all claims of and liability to the Contractor, of which the Contractor was aware or should reasonably have been aware, arising out of the performance of this Agreement based on actions of the City prior to such acceptance of final payment, excepting any disputes that are the subject of pending dispute resolution procedures.

Section 12.07 No Waiver

Waiver by either the Department or the Contractor of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless and until the same shall be agreed to in writing by the parties as set forth in Section 9.01.

ARTICLE 13. APPLICABLE LAWS

Section 13.01 PPB Rules

This Agreement is subject to the PPB Rules. In the event of a conflict between the PPB Rules and a provision of this Agreement, the PPB Rules shall take precedence.

Section 13.02 All Legal Provisions Deemed Included

Each and every provision required by Law to be inserted in this Agreement is hereby deemed to be a part of this Agreement, whether actually inserted or not.

Section 13.03 Severability / Unlawful Provisions Deemed Stricken

If this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making of this Agreement, the unlawful provision shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Agreement without affecting the binding force of the remainder.

Section 13.04 Compliance With Laws

The Contractor shall perform all services under this Agreement in accordance with all applicable Laws as are in effect at the time such services are performed.

Section 13.05 [Intentionally Omitted]

Section 13.06 [Intentionally Omitted]

Section 13.07 Participation in an International Boycott

A. The Contractor agrees that neither the Contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the federal Export Administration Act of 1979, as amended, 50 U.S.C. Appendix. §§ 2401 et seq., or the regulations of the United States Department of Commerce promulgated thereunder.

B. Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of, the Contractor or a substantially-owned affiliated company thereof, of participation in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Comptroller may, at his or her option, render forfeit and void this Agreement.

C. The Contractor shall comply in all respects, with the provisions of Admin. Code § 6-114 and the rules issued by the Comptroller thereunder.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

Section 13.08 MacBride Principles

A. In accordance with and to the extent required by Admin. Code § 6-115.1, the Contractor stipulates that the Contractor and any individual or legal entity in which the Contractor holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

B. The Contractor agrees that the covenants and representations in Paragraph A above are material conditions to this Agreement.

C. This Section does not apply if the Contractor is a not-for-profit corporation.

Section 13.09 [Intentionally Omitted]

Section 13.10 [Intentionally Omitted]

ARTICLE 14. MISCELLANEOUS PROVISIONS

Section 14.01 Conditions Precedent

A. This Agreement shall be neither binding nor effective unless and until it is registered pursuant to Charter § 328.

B. The requirements of this Section shall be in addition to, and not in lieu of, any approval or authorization otherwise required for this Agreement to be effective and for the expenditure of City funds.

Section 14.02 Merger

This written Agreement contains all the terms and conditions agreed upon by the parties, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties, or to vary any of the terms contained in this Agreement, other than a written change, amendment or modification duly executed by both parties pursuant to Article 9 of this Appendix A.

Section 14.03 Headings

Headings are inserted only as a matter of convenience and therefore are not a part of and do not affect the substance of this Agreement.

Section 14.04 Notice

A. The Contractor and the Department hereby designate the business addresses specified at the beginning of this Agreement as the places where all notices, directions, or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Either party may change its notice address at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other party in the manner as specified below.

B. Any notice, direction, or communication from either party to the other shall be in writing and shall be deemed to have been given when (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) delivered by overnight or same day courier service in a properly addressed envelope with confirmation; or (iv) sent by fax or email and, unless receipt of the fax or e-mail is acknowledged by the recipient by fax or e-mail, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed, postage pre-paid envelope.

DSNY AGREEMENT TO HIRE EQUIPMENT WITH OPERATORS
FOR SNOW REMOVAL EMERGENCIES
2017-2018, 2018-2019, AND 2019-2020 WINTER SEASONS

C. Nothing in this Section shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by Law, including the New York Civil Practice Law and Rules.

WHISTLEBLOWER PROTECTION EXPANSION ACT RIDER

1. In accordance with Local Law Nos. 30-2012 and 33-2012, codified at sections 6-132 and 12-113 of the New York City Administrative Code, respectively,

- (a) Contractor shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee relating to this Contract to (i) the Commissioner of the Department of Investigation, (ii) a member of the New York City Council, the Public Advocate, or the Comptroller, or (iii) the City Chief Procurement Officer, ACCO, Agency head, or Commissioner.
- (b) If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of subparagraph (a) of paragraph 1 of this rider, he or she shall be entitled to bring a cause of action against Contractor to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees.
- (c) Contractor shall post a notice provided by the City in a prominent and accessible place on any site where work pursuant to the Contract is performed that contains information about:
 - (i) how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Contract; and
 - (ii) the rights and remedies afforded to its employees under New York City Administrative Code sections 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Contract.
- (d) For the purposes of this rider, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.
- (e) This rider is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of \$100,000; accordingly, Contractor shall include this rider in all subcontracts with a value a value in excess of \$100,000.

2. Paragraph 1 is not applicable to this Contract if it is valued at \$100,000 or less. Subparagraphs (a), (b), (d), and (e) of paragraph 1 are not applicable to this Contract if it was solicited pursuant to a finding of an emergency. Subparagraph (c) of paragraph 1 is neither applicable to this Contract if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

EXHIBIT G:

Iran Divestment Act Compliance Rider

PIN: 82717CC0025

**IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR
NEW YORK CITY CONTRACTORS**

The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law (“SFL”) §165-a and General Municipal Law (“GML”) §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:

- (a) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
- (b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.

A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder’s certification.

Each bidder or proposer must certify that it is not on the list of entities engaged in investment activities in Iran created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. In any case, where the bidder or proposer cannot certify that they are not on such list, the bidder or proposer shall so state and shall furnish with the bid or proposal a signed statement which sets forth in detail the reasons why such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case-by-case basis if:

- (a) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or
- (b) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

EXHIBIT H:

Electronic Funds Transfer Form

PIN: 82717CC0025



Direct Deposit/Electronic Funds Transfer (EFT) ENROLLMENT/CHANGE OF ACCOUNT FORM

INSTRUCTIONS

- For more information about EFT, to contact us, or to download an application, go to nyc.gov/eft
- If sending by mail, please do not staple
- If submitting multiple enrollments by E-Fax, each individual application must be faxed separately
- Form must be typed and submitted to:

E-Fax: (646) 500-7152 **Or**

Mail: NYC Department of Finance, Treasury Division
66 John Street, 12th Floor, New York, NY 10038, Attention: EFT

SECTION 1 - APPLICATION REQUIREMENT (REQUIRED ITEM)

Submit **one** item with your application. Incomplete applications will not be processed.

- Copy of voided check imprinted with vendor name
- Current bank statement Letter from your bank*

* Bank documentation must contain the vendor/company name, complete bank account and routing number. Bank documentation must also include bank representative's signature, printed name, and date signed.

SECTION 2 - VENDOR INFORMATION (ALL FIELDS REQUIRED)

1. Social Security # or Taxpayer ID #: <i>(As it appears on W-9 Form)</i>	
2. Vendor Name: <i>(As it appears on W-9 Form)</i>	
3. Vendor Address: <i>Number, Street, City, State and Zip Code</i>	
4. Vendor Email Address:	
5. Vendor Telephone Number and Extension:	

SECTION 3 - BANK INFORMATION (ALL FIELDS REQUIRED)

1. Name of Bank:		
2. Name of Account: <i>(Exactly as it appears on Account)</i>		
3. Account Number and Type:	<input type="checkbox"/> CHECKING	<input type="checkbox"/> SAVINGS
4. 9-Digit Bank Routing Number: <i>(See bottom of check)</i>		
5. Bank Telephone Number and Extension:		

SECTION 4 - VENDOR SIGNATURE AND AUTHORIZATION (MUST SIGN, PRINT AND DATE)

I, hereby confirm my authority, as an authorized signer of the above-referenced bank account ("Account"), to issue this instruction to credit and debit, via the Automated Clearinghouse, the Account. I authorize the City of New York to deposit, via Automated Clearinghouse credit entry, all entitled payments to the Account and to initiate, as necessary, Automated Clearinghouse debit entries to adjust any Automated Clearinghouse credit (i) made in error (ii) deposited for an incorrect amount, or (iii) that is a duplicate of a correct payment. The City of New York will make a reasonable effort to communicate with me to notify me of a debit entry that will be made to the Account. I understand that this authorization will remain in effect until a written instruction, properly executed by me, authorizing cancellation is submitted to the fax number above.

Authorized Signature	Print/Type Name	Date (MM-DD-YYYY)

CONTRACT NO. _____

**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION**

**CONTRACT TO HIRE EQUIPMENT
WITH OPERATORS FOR SNOW
REMOVAL EMERGENCIES
FOR THE 2017-18, 2018-19, AND 2019-20
WINTER SEASONS**

PIN: 82717CC0025

Contractor's Name

Dated: _____, _____

Assigned to _____

**APPROVED AS TO FORM
CERTIFIED AS TO LEGAL AUTHORITY**

Acting Corporation Counsel

Dated _____, _____

EXAMINED AND FOUND CORRECT

Contract Clerk
Comptroller

ENTERED IN THE COMPTROLLER'S OFFICE

Dated _____, _____

First Assistant Bookkeeper
