

## TIPS VENDOR AGREEMENT (Part 1)

### TIPS RFP 240104 Trades, Labor, and Materials (PART 1)

The following Vendor Agreement (“Agreement”) creates a legal agreement between The Interlocal Purchasing System (“TIPS”), a government purchasing cooperative and Department of Texas Region 8 Education Service Center and (INSERT ENTITY NAME):

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(ENTER ENTITY NAME]

its owners, agents, subsidiaries, and affiliates (together, “Vendor”) (individually, “Party”, and collectively the “Parties”) and this agreement shall exclusively govern the contractual relationship (“Agreement”) between the Parties for Part 1 of the related solicitation opportunity. If Vendor proposes and is awarded on Part 2, a separate Part 2 Vendor Agreement shall control Part 2 terms.

TIPS, a governmental entity and a national purchasing cooperative seeks to provide a valuable and necessary solution to public entities and qualifying non-profits by performing the public procurement solicitation process and awarding compliant contracts to qualified vendors. Then, where the law of a customer’s jurisdiction allows, instead of public entities and qualifying non-profits expending time, money, and resources on the extensive public procurement process, the use of TIPS allows public entities to quickly select and purchase their preferred products or services from qualified, competitively evaluated vendors through cooperative purchasing.

1. **Purpose.** The purpose of this Agreement is to identify the terms and conditions of the relationship between TIPS and Vendor. Public entities and qualifying non-profits that properly join or utilize TIPS (“TIPS Members”) may elect to “piggyback” off of TIPS’ procurements and agreements where the laws of their jurisdiction allow. TIPS Members are not contractual parties to this Agreement although terms and conditions of this Agreement may ensure benefits to TIPS Members.
2. **Authority.** The Parties agree that the signatories below are individual authorized to enter into this Agreement on behalf of their entity and that they are acting under due and proper authority under applicable law.
3. **Definitions.**
  - a. **TIPS Pricing:** The specific pricing, discounts, and other pricing terms and incentives which Vendor submitted and TIPS approved for each respective TIPS Contract awarded to Vendor and all permissible, subsequent pricing updates submitted by Vendor and accepted by TIPS, if any.
  - b. **Authorized Reseller:** A reseller or dealer authorized and added by a Vendor through their online TIPS Vendor Portal to make TIPS sales according to the terms and conditions herein.
4. **Entire Agreement.** This Agreement resulted from TIPS posting a Part 1 “TIPS Solicitation” (RFP, RCSP, RFQ, or other) and Vendor submitting a proposal in response to that posted TIPS Solicitation for evaluation and award. The Parties agree that this Agreement consists of the provisions set forth herein and: (1) The Part 1 TIPS solicitation document resulting in this Agreement; (2) Any Part 1 addenda or clarifications issued in relation to the TIPS solicitation; (3) All Part 1 solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor’s entire Part 1 proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, pricing, accepted responses to questions, and accepted written clarifications of Vendor’s proposal, and; any properly included attachments to this Agreement. All documentation and information listed is hereby incorporated by reference as if set forth herein verbatim. In the event of conflict between the terms herein and one of the incorporated documents the terms and conditions herein shall control.
5. **Vendor’s Specific Warranties, Terms, and License Agreements.** Because TIPS serves public entities and non-profits throughout the nation all of which are subject to specific laws and policies of their jurisdiction, as a matter of standard practice, TIPS does not typically accept a Vendor’s specific “Sale Terms” (warranties, license agreements, master agreements, terms and conditions, etc.) on behalf of all TIPS Members. TIPS may permit Vendor to attach those to this Agreement to display to interested customers what terms may apply to their Supplemental Agreement with Vendor (if submitted by Vendor for that purpose). However, unless this term of the Agreement is negotiated and modified to state otherwise, those specific Sale Terms are not accepted by TIPS on behalf of all TIPS Members and each Member may choose whether to accept, negotiate, or reject those specific Sale Terms, which must be reflected in a separate agreement between Vendor and the Member in order to be effective.

- 6. Vendor Identity and Contact Information.** It is Vendor's sole responsibility to ensure that all identifying vendor information (name, EIN, d/b/a's, etc.) and contact information is updated and current at all times within the TIPS eBid System and the TIPS Vendor Portal. It is Vendor's sole responsibility to confirm that all e-correspondence issued from tips-usa.com, ionwave.net, and tipsconstruction.com to Vendor's contacts are received and are not blocked by firewall or other technology security. Failure to permit receipt of correspondence from these domains and failure to keep vendor identity and contact information current at all times during the life of the contract may cause loss of TIPS Sales, accumulating TIPS fees, missed rebid opportunities, lapse of TIPS Contract(s), and unnecessary collection or legal actions against Vendor. It is no defense to any of the foregoing or any breach of this Agreement that Vendor was not receiving TIPS' electronic communications issued by TIPS to Vendor's listed contacts.
- 7. Initiation of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Once verified, Vendor must include the TIPS Contract Number on all purchase communications and sales documents exchanged with the TIPS Member.
- 8. TIPS Sales and Supplemental Agreements.** The terms of the specific TIPS order, including but not limited to: shipping, freight, insurance, delivery, fees, bonding, cost, delivery expectations and location, returns, refunds, terms, conditions, cancellations, order assistance, etc., shall be controlled by the purchase agreement (Purchase Order, Contract, Invoice, etc.) (hereinafter "Supplemental Agreement") entered into between the TIPS Member Customer and Vendor only. TIPS is not a party to any Supplemental Agreement. All Supplemental Agreements shall include Vendor's Name, as known to TIPS, and TIPS Contract Name and Number. Vendor accepts and understands that TIPS is not a legal party to TIPS Sales and Vendor is solely responsible for identifying fraud, mistakes, unacceptable terms, or misrepresentations for the specific order prior to accepting. Vendor agrees that any order issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. When Vendor accepts or fulfills an order, even when processed through TIPS, Vendor is representing that Vendor has carefully reviewed the order for legality, authenticity, and accuracy and TIPS shall not be liable or responsible for the same. In the event of a conflict between the terms of this TIPS Vendor Agreement and those contained in any Supplemental Agreement, the provisions set forth herein shall control unless otherwise agreed to and authorized by the Parties in writing within the Supplemental Agreement.
- 9. Right of Refusal.** Vendor has the right not to sell to a TIPS Member under the awarded agreement at Vendor's discretion unless otherwise required by law.
- 10. Reporting TIPS Sales.** Vendor must report all TIPS Sales to TIPS. If a TIPS sale is initiated by Vendor receiving a TIPS Member's purchase order from TIPS directly, Vendor may consider that specific TIPS Sale reported. Otherwise, with the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either: (1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at [tipspo@tips-usa.com](mailto:tipspo@tips-usa.com) with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or; (2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement. No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at [accounting@tips-usa.com](mailto:accounting@tips-usa.com).
- 11. TIPS Administration Fees.** The collection of administrative fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The administration fee ("TIPS Administration Fee") is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of the amount paid by the TIPS Member for each TIPS Sale, less shipping cost, bond cost, and taxes if applicable and identifiable, which is legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding solicitation and is incorporated herein by reference. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. Upon receipt of payment for a TIPS Sale, including partial payment (which renders TIPS Administration Fees immediately due), Vendor shall issue to TIPS the corresponding TIPS Administration Fee payment as soon as possible but not later than thirty-one calendar days following Vendor's receipt of payment. Vendor shall pay TIPS via check unless otherwise agreed to by the Parties in writing. Vendor shall include clear documentation with the issued payment dictating to which sale(s) the amount should be applied. Vendor may create a payment report within their TIPS Vendor Portal which is the preferred documentation dictating to which TIPS Sale(s) the amount should be applied. Failure to pay all TIPS Administration Fees pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion as well as the initiation of collection and legal actions by TIPS against Vendor to the extent permitted by law. Any overpayment of participation fees to TIPS by Vendor will be refunded to the Vendor

within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date that TIPS received the payment will render the overpayment non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect TIPS Administration Fees due to TIPS pursuant to this Agreement.

**Term of the Agreement.** Term of the Agreement. This Agreement with TIPS is for approximately five years.

**Actual Effective Date:** Agreement is effective upon signature by authorized representatives of both Parties. The Effective Date does not affect the “Term Calculation Start Date.”

**Term Calculation Start Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, Vendor shall calculate the foregoing term as starting on the last day of the month that “Award Notifications” are anticipated as published in the Solicitation, regardless of the actual Effective Date.

**Example of Term Calculation Start Date:** If the anticipated “Award Date” published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 in this example.

**Contract Expiration Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, the term expiration date shall be five-years from the Term Calculation Start Date.

**Example of Contract Expiration Date:** If the anticipated “Award Date” published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 and the Contract Expiration Date of the resulting initial “five-year” term, (which is subject to an extension(s)) will be May 31, 2028 in this example. TIPS may offer to extend Vendor Agreements to the fullest extent the TIPS Solicitation resulting in this Agreement permits.

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12. **TIPS Pricing.** Vendor agrees and understands that for each TIPS Contract that it holds, Vendor submitted, agreed to, and received TIPS’ approval for specific pricing, discounts, and other pricing terms and incentives which make up Vendor’s TIPS Pricing for that TIPS Contract (“TIPS Pricing”). Vendor confirms that Vendor will not add the TIPS Administration Fee as a charge or line-item in a TIPS Sale. Vendor hereby certifies that Vendor shall only offer goods and services through this TIPS Contract if those goods and services are included in or added to Vendor’s TIPS Pricing and approved by TIPS. TIPS reserves the right to review Vendor’s pricing update requests as specifically as line-item by line-item to determine compliance. However, Vendor contractually agrees that all submitted pricing updates shall be within the original terms of the Vendor’s TIPS Pricing (scope, proposed discounts, price increase limitations, and other pricing terms and incentives originally proposed by Vendor) such that TIPS may accept Vendors price increase requests as submitted without additional vetting at TIPS discretion. Any pricing quoted by Vendor to a TIPS Member or on a TIPS Quote shall never exceed Vendor’s TIPS Pricing for any good or service offered through TIPS. TIPS Pricing price increases and modifications, if permitted, will be honored according to the terms of the solicitation and Vendor’s proposal, incorporated herein by reference.

13. **Indemnification of TIPS.** VENDOR AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND TIPS, TIPS MEMBERS, TIPS OFFICERS, TIPS EMPLOYEES, TIPS DIRECTORS, AND TIPS TRUSTEES (THE “TIPS INDEMNITEES”) FROM AND AGAINST ALL CLAIMS AND SUITS BY THIRD-PARTIES FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGES, LOSSES, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY’S FEES, AND EXPERT FEES, ARISING OUT OF OR RELATING TO VENDOR’S PERFORMANCE UNDER THIS AGREEMENT (INCLUDING THE PERFORMANCE OF VENDOR’S OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES), REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL, OR STATUTORY LAW OR BASED IN WHOLE OR IN PART UPON ALLEGATIONS OF NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS ON THE PART OF VENDOR, ITS OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES. NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED TO BY TIPS. APART FROM THIS INDEMNIFICATION PROVISION REQUIRING INDEMNIFICATION OF THE TIPS INDEMNITEES’ ATTORNEY’S FEES AS SET FORTH ABOVE, RECOVERY OF ATTORNEYS’ FEES BY THE PREVAILING PARTY IS AUTHORIZED ONLY IF AUTHORIZED BY TEX. EDUC. CODE § 44.032(F).

14. **Indemnification and Assumption of Risk – Vendor Data.** VENDOR AGREES THAT IT IS VOLUNTARILY PROVIDING DATA (INCLUDING BUT NOT LIMITED TO: VENDOR INFORMATION, VENDOR DOCUMENTATION, VENDOR’S PROPOSALS, VENDOR PRICING SUBMITTED OR PROVIDED TO TIPS, TIPS CONTRACT DOCUMENTS, TIPS CORRESPONDENCE, VENDOR LOGOS AND IMAGES,

**VENDOR'S CONTACT INFORMATION, VENDOR'S BROCHURES AND COMMERCIAL INFORMATION, VENDOR'S FINANCIAL INFORMATION, VENDOR'S CERTIFICATIONS, AND ANY OTHER VENDOR INFORMATION OR DOCUMENTATION, INCLUDING WITHOUT LIMITATION SOFTWARE AND SOURCE CODE UTILIZED BY VENDOR, SUBMITTED TO TIPS BY VENDOR AND ITS AGENTS) ("VENDOR DATA") TO TIPS. FOR THE SAKE OF CLARITY, AND WITHOUT LIMITING THE BREADTH OF THE INDEMNITY OBLIGATIONS IN SECTION 14 ABOVE, VENDOR AGREES TO PROTECT, INDEMNIFY, AND HOLD THE TIPS INDEMNITEES HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, ACTIONS, DEMANDS, ALLEGATIONS, SUITS, JUDGMENTS, COSTS, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES AND ALL OTHER LIABILITY OF ANY NATURE WHATSOEVER ARISING OUT OF OR RELATING TO: (I) ANY UNAUTHORIZED, NEGLIGENT OR WRONGFUL USE OF, OR CYBER DATA BREACH INCIDENT AND VIRUSES OR OTHER CORRUPTING AGENTS INVOLVING, VENDOR'S DATA, PRICING, AND INFORMATION, COMPUTERS, OR OTHER HARDWARE OR SOFTWARE SYSTEMS, AND; (II) ALLEGATIONS OR CLAIMS THAT ANY VENDOR DATA INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD-PARTY OR VENDOR.**

- 15. Procedures Related to Indemnification.** In the event that an indemnity obligation arises, Vendor shall pay all amounts set forth in Section 14 and 15 above (including any settlements) and – if it has accepted its indemnity obligation without qualification – control the legal defense to such claim or cause of action, including without limitation attorney selection, strategy, discovery, trial, appeal, and settlement, and TIPS shall, at Vendor's cost and expense (with respect to reasonable out of pocket costs and expenses incurred by TIPS which shall be reimbursed to TIPS by Vendor), provide all commercially reasonable assistance requested by Vendor. In controlling any defense, Vendor shall ensure that all assertions of governmental immunity and all applicable pleas and defenses shall be promptly asserted.
- 16. Indemnity for Underlying Sales and Supplemental Agreements.** Vendor shall be solely responsible for any customer claims or any disputes arising out of TIPS Sales or any Supplemental Agreement as if sold in the open-market. The Parties agree that TIPS shall not be liable for any claims arising out of Vendor's TIPS Sales or Supplemental Agreements, including but not limited to: allegations of product defect or insufficiency, allegations of service defect or insufficiency, allegations regarding delivery defect or insufficiency, allegations of fraud or misrepresentation, allegations regarding pricing or amounts owed for TIPS sales, and/or allegations regarding payment, over-payment, under-payment, or non-payment for TIPS Sales. Payment/Drafting, overpayment/over-drafting, under-payment/under-drafting, or non-payment for TIPS Sales between customer and Vendor and inspections, rejections, or acceptance of such purchases shall be the exclusive respective obligations of Vendor/Customer, and disputes shall be handled in accordance with the terms of the underlying Supplemental Agreement(s) entered into between Vendor and Customer. Vendor acknowledges that TIPS is not a dealer, subcontractor, agent, or reseller of Vendor's goods and services and shall not be responsible for any claims arising out of alleged insufficiencies or defects in Vendor's goods and services, should any arise.
- 17. Confidentiality of Vendor Data.** Vendor understands and agrees that by signing this Agreement, all Vendor Data is hereby released to TIPS, TIPS Members, and TIPS third-party administrators to effectuate Vendor's TIPS Contract except as provided for herein. The Parties agree that Vendor Data is accessible by all TIPS Members as if submitted directly to that TIPS Member Customer for purchase consideration. If Vendor otherwise considers any portion of Vendor's Data to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code (the "Public Information Act") or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form which is required to be submitted as part of Vendor's proposal resulting in this Agreement and incorporated by reference. The Confidentiality Claim Form included in Vendor's proposal and incorporated herein by reference is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a Public Information Request. If TIPS receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor Data deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion. In the event that TIPS receives a written request for information pursuant to the Public Information Act that affects Vendor's interest in any information or data furnished to TIPS by Vendor, and TIPS requests an opinion from the Attorney General, Vendor may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Public Information Act. Vendor is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Public Information Act. Notwithstanding any other information provided in this solicitation or Vendor designation of certain Vendor Data as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's Data, including any information deemed confidential or proprietary, to TIPS Members or as ordered by a Court or government agency, including without limitation the Texas Attorney General. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or as required by law.
- 18. Vendor's Authorized Resellers.** TIPS recognizes that many vendors operate in the open market through the use of resellers or dealers. For that reason, TIPS permits Vendor to authorize Authorized Resellers within its Vendor Portal and make TIPS Sales through the Authorized Reseller(s). Once authorized by Vendor in the Vendor Portal, the Authorized Reseller(s) may make TIPS sales to TIPS

Members. However, all purchase documents must include: (1) Authorized Reseller's Name; (2) Vendor's Name, as known to TIPS, and; (3) Vendor's TIPS Contract Name and Number under which it is making the TIPS Sale. Either Vendor or Reseller may report the sale pursuant to the terms herein. However, Vendor agrees that it is legally responsible for all reporting and fee payment as described herein for TIPS Sales made by Authorized Resellers. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. The Parties intend that Vendor shall be responsible and liable for TIPS Sales made by Vendor's Authorized Resellers. Vendor agrees that it is voluntarily authorizing this Authorized Reseller and in doing so, Vendor agrees that it is doing so at its own risk and agrees to protect, indemnify, and hold TIPS harmless in accordance with Sections 14-17 above related to Authorized Reseller TIPS Sales made pursuant to this Agreement or purporting to be made pursuant to this Agreement that may be asserted against Vendor whether rightfully brought or otherwise. The Parties further agree that it is no defense to Vendor's breach of this Agreement that an Authorized Reseller caused Vendor of breach this Agreement.

**19. Circumvention of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Any request for quote, customer communication, or customer purchase initiated through or referencing a TIPS Contract shall be completed through TIPS pursuant to this Agreement. Any encouragement or participation by Vendor in circumventing a TIPS sale being completed may result in immediate termination of Vendor's TIPS Contract(s) for cause as well as preclusion from future TIPS opportunities at TIPS sole discretion.

**20. State of Texas Franchise Tax.** By signature hereon, Vendor hereby certifies that Vendor is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171 of the Texas Tax Code.

**21. Termination.**

- A) Termination for Convenience. TIPS may, by written notice to Vendor, terminate this Agreement for convenience, in whole or in part, at any time by giving thirty (30) days' written notice to Vendor of such termination, and specifying the effective date thereof.
- B) Termination for Cause. If Vendor fails to materially perform pursuant to the terms of this Agreement, TIPS shall provide written notice to Vendor specifying the default. If Vendor does not cure such default within thirty (30) days, TIPS may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
- C) Vendor's Termination. If TIPS fails to materially perform pursuant to the terms of this Agreement, Vendor shall provide written notice to TIPS specifying the default ("Notice of Default"). If TIPS does not cure such default within thirty (30) days, Vendor may terminate this Agreement, in whole or in part, for cause. If Vendor terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
- D) Upon termination, all TIPS Sale orders previously accepted by Vendor shall be fulfilled and Vendor shall be paid for all TIPS Sales executed pursuant to the applicable terms. All TIPS Sale orders presented to Vendor but not fulfilled by Vendor, prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. TIPS shall submit to Vendor an invoice for any outstanding TIPS Administration Fees and approved expenses and Vendor shall pay such fees and expenses within 30 calendar days of receipt of such valid TIPS invoice. Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS' sole discretion and that any Vendor may be removed from the TIPS program at any time with or without cause. This termination clause does not affect TIPS Sales Supplemental Agreements pursuant to this term regarding termination and the Survival Clause term.
- E) Vendor hereby waives any and all claims for damages, including, but not limited, to consequential damages or lost profits, that might arise from TIPS' act of terminating this Agreement.

**22. Survival Clause.** It is the intent of the Parties that this Agreement and procurement method applies to any TIPS Sale made during the life of this Agreement even if made on or near the Contract Expiration Date as defined herein. Thus, all TIPS Sales, including but not limited to: leases, service agreements, license agreements, open purchase orders, warranties, and contracts, even if they extend months

or years past the TIPS Contract Expiration Date, shall survive the expiration or termination of this Agreement subject to the terms and conditions of the Supplemental Agreement between Customer and Vendor or unless otherwise specified herein.

- 23. Audit Rights.** Due to transparency statutes and public accountability requirements of TIPS and TIPS Members, Vendor shall at their sole expense, maintain documentation of all TIPS Sales for a period of three years from the time of the TIPS Sale. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Vendor's TIPS Pricing or TIPS Sales with thirty-days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without said notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with Vendor's TIPS Pricing, TIPS shall have the ability to conduct the audit internally or may engage a third-party auditing firm to investigate any possible non-compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format, and at the location acceptable to TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member. These audit rights shall survive termination of this Agreement for a period of one (1) year from the effective date of termination.
- 24. Conflicts of Interest.** The Parties confirm that they have not offered, given, or accepted, nor intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service to the other in connection with this Agreement. Vendor affirms that, to the best of Vendor's knowledge, this Agreement has been arrived at independently, and is awarded without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement. Vendor agrees that it has disclosed any necessary affiliations with Region 8 Education Service Center and the TIPS Department, if any, through the Conflict of Interest attachment provided in the solicitation resulting in this Agreement.
- 25. Volume of TIPS Sales.** Nothing in this Agreement or any TIPS communication may be construed as a guarantee that TIPS or TIPS Members will submit any TIPS orders to Vendor at any time.
- 26. Compliance with the Law.** The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations applicable to their entity in connection with the programs contemplated under this Agreement.
- 27. Severability.** If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, then such term(s) or provision(s) shall be deemed restated to reflect the original intention of the Parties as nearly as possible in accordance with applicable law and the remainder of this Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such holding causes the obligations of the Parties hereto to be impossible to perform or shall render the terms of this Agreement to be inconsistent with the intent of the Parties hereto.
- 28. Force Majeure.** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement through no fault of its own then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon. Upon delivering such notice, the obligation of the affected party, so far as it is affected by such Force Majeure as described, shall be suspended during the continuance of the inability then claimed but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. In the event that Vendor's obligations are suspended by reason of Force Majeure, all TIPS Sales accepted prior to the Force Majeure event shall be the legal responsibility of Vendor and the terms of the TIPS Sale Supplemental Agreement shall control Vendor's failure to fulfill for a Force Majeure event.
- 29. Immunity.** Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.
- 30. Insurance Requirements.** Vendor agrees to maintain the following minimum insurance requirements for the duration of this Agreement. All policies held by Vendor to adhere to this term shall be written by a carrier with a financial size category of VII and at least a rating of "A-" by A.M. Best Key Rating Guide. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover

said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member. Vendor agrees that when Vendor or its subcontractors are liable for any damages or claims, Vendor's policy, shall be primary over any other valid and collectible insurance carried by the Member or TIPS.

General Liability: \$1,000,000 each Occurrence/Aggregate  
Automobile Liability: \$300,000 Includes owned, hired & non-owned  
Workers' Compensation: Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. If Vendor performs in multiple jurisdictions, Vendor shall maintain the statutory limits for the jurisdiction with the greatest dollar policy limit requirement.  
Umbrella Liability: \$1,000,000 each Occurrence/Aggregate

31. **Waiver.** No waiver of any single breach or multiple breaches of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting regarding any breach of any provision shall be construed to be a waiver of such breach.
32. **Binding Agreement.** This Agreement shall be binding and inure to the benefit of the Parties hereto and their respective heirs, legal successors, and assigns.
33. **Headings.** The paragraph headings contained in this Agreement are included solely for convenience of reference and shall not in any way affect the meaning or interpretation of any of the provisions of this Agreement.
34. **Choice of Law and Venue.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. Any proceeding, claim, action, or alternative dispute resolution arising out of or relating to this Agreement or involving TIPS shall be brought in a State Court of competent jurisdiction in Camp County, Texas, or if Federal Court is legally required, a Federal Court of competent jurisdiction in the Eastern District of Texas, and each of the Parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or and contemplated transaction in any other court. The Parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum.
35. **Relationship of the Parties.** Nothing contained in this Agreement shall be construed to make one Party an agent of the other Party nor shall either party have any authority to bind the other in any respect, unless expressly authorized by the other party in writing. The Parties are independent contractors and nothing in this Agreement creates a relationship of employment, trust, agency or partnership between them.
36. **Assignment.** No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by a Party hereto without the prior written consent of the other Party. Written consent of TIPS shall not be unreasonably withheld.
37. **Minimum Condition and Warranty Requirements for TIPS Sales.** All goods quoted or sold through a TIPS Sale shall be new unless clearly stated otherwise in writing. All new goods and services shall include the applicable manufacturers minimum standard warranty unless otherwise agreed to in the Supplemental Agreement.
38. **Minimum Customer Support Requirements for TIPS Sales.** Vendor shall provide timely and commercially reasonable support for TIPS Sales or as agreed to in the applicable Supplemental Agreement.
39. **Minimum Shipping Requirements for TIPS Sales.** Vendor shall ship, deliver, or provide ordered goods and services within a commercially reasonable time after acceptance of the order. If a delay in delivery is anticipated, Vendor shall notify the TIPS Member as to why delivery is delayed and provide an updated estimated time for completion. The TIPS Member may cancel the order if the delay is not commercially acceptable or not consistent with the Supplemental Agreement applicable to the order.
40. **Minimum Vendor License Requirements.** Vendor shall maintain, in current status, all federal, state, and local licenses, bonds and permits required for the operation of the business conducted by Vendor. Vendor shall remain fully informed of and in compliance with



all ordinances and regulations pertaining to the lawful provision of goods or services under the TIPS Agreement. TIPS and TIPS Members reserve the right to stop work and/or cancel a TIPS Sale or terminate this or any TIPS Sale Supplemental Agreement involving Vendor if Vendor's license(s) required to perform under this Agreement or under the specific TIPS Sale have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.

- 41. Minimum Vendor Legal Requirements.** Vendor shall remain aware of and comply with this Agreement and all local, state, and federal laws governing the sale of products/services offered by Vendor under this contract. Such applicable laws, ordinances, and policies must be complied with even if not specified herein.
- 42. Minimum Site Requirements for TIPS Sales (when applicable to TIPS Sale).**

**Cleanup:** When performing work on site at a TIPS Member's property, Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by the TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Vendor shall not begin a project for which a TIPS Member has not prepared the site, unless Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in the TIPS Sale Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

**Registered Sex Offender Restrictions:** For work to be performed at schools, Vendor agrees that no employee of Vendor or a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the TIPS Sale at the TIPS Member's discretion. Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

**Safety Measures:** Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

**Smoking:** Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes, ordinances, and policies.

- 43. Payment for TIPS Sales.** TIPS Members may make payments for TIPS Sales directly to Vendor, Vendor's Authorized Reseller, or as otherwise agreed to in the applicable Supplemental Agreement after receipt of the invoice and in compliance with applicable payment statutes. Regardless of how payment is issued or received for a TIPS Sale, Vendor is responsible for all reporting and TIPS Administration Fee payment requirements as stated herein.
- 44. Marketing.** Vendor agrees to allow TIPS to use their name and logo within the TIPS website, database, marketing materials, and advertisements unless Vendor negotiates this term to include a specific acceptable-use directive. Any use of TIPS' name and logo or any form of publicity, inclusive of press release, regarding this Agreement by Vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to [tips@tips-usa.com](mailto:tips@tips-usa.com). For marketing efforts directed to TIPS Members, Vendor must request and execute a separate Joint Marketing Disclaimer, at [marketing@tips-usa.com](mailto:marketing@tips-usa.com), before TIPS can release contact information for TIPS Member entities for the purpose of marketing your TIPS contract(s). Vendor must adhere to strict Marketing Requirements once a disclaimer is executed. The Joint Marketing Disclaimer is a supplemental agreement specific to joint marketing efforts and has no effect on the terms of the TIPS Vendor Agreement. Vendor agrees that any images, photos, writing, audio, clip art, music, or any other intellectual property ("Property") or Vendor Data utilized, provided, or approved by Vendor during the course of the joint marketing efforts are either the exclusive property of Vendor, or Vendor has all necessary rights, license, and permissions to utilize said Property in the joint marketing efforts. Vendor agrees that they shall indemnify and hold harmless TIPS and its employees, officers, agents, representatives, contractors, assignees, designees, and TIPS Members from any and all claims, damages, and judgments involving infringement of patent, copyright, trade secrets, trade or services marks, and any other intellectual or intangible property rights and/or claims arising from the Vendor's (including Vendor's officers', employees', agents', Authorized Resellers', subcontractors', licensees', or invitees') unauthorized use or distribution of Vendor Data and Property.
- 45. Tax Exempt Status of TIPS Members.** Most TIPS Members are tax exempt entities and the laws and regulations applicable to the specific TIPS Member customer shall control.



- 46. Automatic Renewal Limitation for TIPS Sales.** No TIPS Sale may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.
- 47. Choice of Law Limitation for TIPS Sales.** Vendor agrees that if any "Choice of Law" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the TIPS Sale agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.
- 48. Venue Limitation for TIPS Sales.** Vendor agrees that if any "Venue" provision is included in any TIPS Sale Agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.
- 49. Indemnity Limitation for TIPS Sales.** Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any TIPS sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.
- 50. Arbitration Limitation for TIPS Sales.** Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may not require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

In Witness Whereof, the parties hereto, each acting under due and proper authority, have signed this Agreement.

TIPS VENDOR AGREEMENT SIGNATURE FORM

TIPS 240104 Trades, Labor, and Materials (Part 1)

Vendor Name: Arrow Steel Window Corp.

Vendor Address: 133 East Carmans Road

City: East Farmingdale State: NY Zip Code: 11735

Vendor Authorized Signatory Name: Chris Galati

Vendor Authorized Signatory Title: Vice President

Vendor Authorized Signatory Phone: 631-756-8661

Vendor Authorized Signatory Email: cg@arrowsteelwindow.com

Vendor Authorized Signature:  Date: 2/22/24

*(The following is for TIPS completion only)*

TIPS Authorized Signatory Name: Dr. David Fitts

TIPS Authorized Signatory Title: Executive Director

TIPS Authorized Signature:  Date: 4/25/2024



**240104**

**Arrow Steel Window Corp  
Supplier Response**

**Event Information**

Number: 240104

Title: Trades, Labor, and Materials (2 Part with JOC)

Type: Request for Proposal

Issue Date: 1/4/2024

Deadline: 2/16/2024 03:00 PM (CT)

Notes: This is a solicitation issued by The Interlocal Purchasing System (TIPS), a department of Texas Region 8 Education Service Center. It is an Indefinite Delivery, Indefinite Quantity ("IDIQ") solicitation. It will result in contracts that provide, through adoption/"piggyback" an indefinite quantity of supplies/services, during a fixed period of time, to TIPS public entity and qualifying non-profit "TIPS Members" throughout the nation. Thus, there is no specific project or scope of work to review. Rather this solicitation is issued as a prospective award for utilization when any TIPS Member needs the goods or services offered during the life of the agreement.

This is a two part solicitation. Part 1 is solicited for TIPS sales that are not considered a "public work" construction project. Part 1 permits the sale of goods and non-construction/non-"public work" services such as maintenance and minor repairs. Part 2 Job Order Contract (JOC) is solicited for projects considered by your TIPS Member Customers to be a "public work" construction project. The determination of whether or not a TIPS sale amounts to a "public work" construction project requiring a Part 2 JOC contract is made by the TIPS Member Customer at the time of each TIPS sale. Thus, Vendors are encouraged to respond to both Parts 1 and 2 in case your TIPS Member Customers require that a sale be made under one Part or the other. However, responding to both Parts is not required.

**IF YOU CURRENTLY HOLD ANY TIPS CONTRACT IN THE "TRADES, LABOR, AND MATERIALS" CATEGORY, WHETHER PART 1 OR PART 2 OR BOTH, AND YOU ARE SATISFIED WITH IT, THERE IS NO NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU ARE SEEKING A PART THAT YOU DO NOT ALREADY HAVE. (EXAMPLE: YOU HAVE PART 1 AND ARE NOW SEEKING PART 2).**

**IF YOU HOLD AN EXISTING TIPS "TRADES, LABOR, AND MATERIALS" CONTRACT AND YOU CHOOSE TO RESPOND TO THE SAME PART 1/PART 2 VERSION HEREIN, YOUR EXISTING TIPS "TRADES, LABOR, AND MATERIALS" CONTRACT WILL BE TERMINATED AND REPLACED BY THE NEW PART 1 OR PART 2 OF THIS CONTRACT.**

**ALSO IF YOU HOLD ANY OTHER TIPS CONTRACT OUTSIDE OF THE "TRADES, LABOR, AND MATERIALS" CATEGORY WHICH COVERS ALL OF YOUR CONSTRUCTION/TRADE OFFERINGS AND YOU ARE SATISFIED WITH IT, THERE IS NO NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU PREFER TO HOLD BOTH CONTRACTS.**

## **Contact Information**

Address: Region 8 Education Service Center  
4845 US Highway 271 North  
Pittsburg, TX 75686  
Phone: +1 (866) 839-8477  
Email: bids@tips-usa.com

## Arrow Steel Window Corp Information

Contact: Christopher galati  
Address: 133 East Carmans Road  
East Farmingdale, NY 11735  
Phone: (631) 756-8661  
Fax: (631) 756-8622  
Email: cg@arrowsteelwindow.com  
Web Address: www.arrowsteelwindow.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Christopher Galati

Signature

Submitted at 2/16/2024 10:52:40 AM (CT)

cg@arrowsteelwindow.com

Email

## Requested Attachments

### Pricing Form 1 (Part 1)

240104 Pricing Form 1 (Part 1).xlsx

If responding to Part 1, Pricing Form 1 (Part 1) must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

### Pricing Form 2 (Part 1)

240104 Pricing Form 2 (Part 1).xlsx

If responding to Part 1, Pricing Form 2 (Part 1) must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

### Vendor Agreement (Part 1)

240104 Vendor Agreement (Part 1).pdf

If responding to Part 1, the Vendor Agreement must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, Vendor Name placed in the line provided at the top, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement (Part 1), Vendor may assert so in the Attribute Questions and those shall be addressed during evaluation.

### Alternate or Supplemental Pricing Documents (Part 1)

No response

Optional. If responding to Part 1, when completing Pricing Form 1 (Part 1) & Pricing Form 2 (Part 1), you direct TIPS to view additional, alternate, or supplemental pricing documentation, you may upload that Part 1 documentation.

### Vendor Agreement Signature Form (Part 1)

sign form 1\_20240214160802.pdf

If responding to Part 1 the Vendor Agreement Signature Form (Part 1) must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement (Part 1), Vendor may leave the signature line of this page blank and assert so in the Attribute Questions and those shall be addressed during evaluation.

### Current Form W-9

W9.pdf

Vendor must upload their current IRS Tax Form W-9. The legal name, EIN, and d/b/a's listed should match the information provided herein exactly. This form will be utilized by TIPS to properly identify your entity.

### Required Confidentiality Claim Form

confident\_20240214160846.pdf

The Required Confidentiality Claim Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. This is the only way for Vendor to assert confidentiality of any information submitted.

### Reference Form

240104 Reference Form JOC (Parts 1 & 2).xls

The Reference Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. The Reference Form must be uploaded in Excel format.

## Part 2 Required Bonding Capacity Letter

2.7.24.pdf

If proposing on Part 2, Vendor is required to upload a Bonding Capacity Letter from its surety, as described herein, at this location. Please see the attachment entitled "Instructions and Sample - Part 2 Required Bonding Capacity Letter" for complete instructions. . On Part 2, Vendor will be scored on the aggregate bonding capacity displayed in the accepted letter. Vendor must provide a current letter (issued on or after the first day of the month preceding the date on which the solicitation was posted) from its surety verifying Vendor's bonding capacity as described herein. (Ex. if the solicitation/bid posted on February 4, 2022, the letter must be dated on or after January 1 2022. The letter must be issued from Vendor's Surety companies, on surety company letterhead, must specify the maximum bonding capacity of the Vendor, and must be signed by an authorized representative of the surety company. The issuing surety must be authorized to do business in the State of Texas and must be listed on the Department of the Treasury's Listing of Approved Sureties (Department Circular 570).

## Optional Xactimate Response Attachment (Part 2)

240104 Optional Additional Xactimate Pricing Form (Part 2).pdf

If proposing on Part 2, this pricing method is optional and CANNOT be used instead of the required RS Means Pricing on Part 2. RS Means Pricing is required on Part 2 but Vendor may submit this pricing option in addition to the required RS Means Pricing and the two pricing scores will be averaged for Part 2. If desired, the Optional Additional Xactimate Pricing Form (Part 2) may be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded at this location.

## Vendor Agreement (Part 2)

240104 Vendor Agreement - JOC (Part 2).pdf

If responding to Part 2, the Vendor Agreement (Part 2) must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement (Part 2), Vendor may assert so in the Attribute Questions and those shall be addressed during evaluation.

## Vendor Agreement Signature Form (Part 2)

sign form 2\_20240214160824.pdf

If responding to Part 2, the Vendor Agreement Signature Form (Part 2) must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement (Part 2), Vendor may leave the signature line of this page blank and assert so in the Attribute Questions and those shall be addressed during evaluation.

## Certificates & Licenses (Supplemental Vendor Information Only)

TIPS docs.pdf

Optional. If Vendor would like to display any applicable certificates or licenses (including HUB certificates) for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

## Vendor's Warranties, Terms, and Conditions (Supplemental Vendor Information Only)

Sample warranties TIPS.pdf

Optional. If Vendor would like to display any standard warranties, terms, or conditions which are often applicable to their offerings for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

## Supplemental Vendor Information (Supplemental Vendor Information Only)

TIPS PROPOSED GOODS AND SERVICES.pdf

Optional. If Vendor would like to display or include any brochures, promotional documents, marketing materials, or other Vendor Information for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

## Disclosure of Lobbying Activities - Standard Form - LLL

No response

Do not upload this form unless Vendor has reportable lobbying activities. There are Attributes entitled, "2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment – Continued." Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Disclosure of Lobbying Activities – Standard Form - LLL must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location.

## Conflict of Interest Questionnaire - Form CIQ

No response

Do not upload this form unless you have a reportable conflict with TIPS. There is an Attribute entitled "Conflict of Interest Questionnaire Requirement" immediately followed by an Attribute entitled "Conflict of Interest Questionnaire Requirement – Form CIQ – Continued." Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Conflict of Interest Questionnaire – Form CIQ must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded at this location.

## Vendor Logo (Supplemental Vendor Information Only)

ASW logo.jpg

Optional. If Vendor desires that their logo be displayed on their public TIPS profile for TIPS and TIPS Member viewing, Vendor may upload that logo at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

## Bid Attributes

### 1 Disadvantaged/Minority/Women Business & Federal HUBZone

Some participating public entities are required to seek Disadvantaged/Minority/Women Business & Federal HUBZone ("D/M/WBE/Federal HUBZone") vendors. Does Vendor certify that their entity is a D/M/WBE/Federal HUBZone vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

YES

### 2 Historically Underutilized Business (HUB)

Some participating public entities are required to seek Historically Underutilized Business (HUB) vendors as defined by the Texas Comptroller of Public Accounts Statewide HUB Program. Does Vendor certify that their entity is a HUB vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

No

### 3 National Coverage

Can the Vendor provide its proposed goods and services to all 50 US States?

No

### 4 States Served

If Vendor answered "No" to the question entitled "National Coverage," please list all states where vendor can provide the goods and services proposed directly below. Your response may dictate which potential TIPS Member customers consider purchasing your offerings.

New York New Jersey Connecticut

### 5 Description of Vendor Entity and Vendor's Goods & Services

If awarded, this description of Vendor and Vendor's goods and services will appear on the TIPS website for customer/public viewing.

Custom Aluminum Windows, custom aluminum and FRP doors, custom aluminum curtain wall systems and storefronts



<b>6</b>	<b>Primary Contact Name</b> Please identify the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract. <input type="text" value="Chris Galati"/>
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<b>7</b>	<b>Primary Contact Title</b> Primary Contact Title <input type="text" value="Vice President"/>
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<b>8</b>	<b>Primary Contact Email</b> Please enter a valid email address that will definitely reach the Primary Contact. <input type="text" value="cg@arrowsteelwindow.com"/>
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<b>9</b>	<b>Primary Contact Phone</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).  Please provide the accurate and current phone number where the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly. <input type="text" value="6317568661"/>
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<b>10</b>	<b>Primary Contact Fax</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="6317568622"/>
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<b>11</b>	<b>Primary Contact Mobile</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="5167240069"/>
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<b>12</b>	<b>Secondary Contact Name</b> Please identify the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract. <input type="text" value="Matthew Galati"/>
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<b>13</b>	<b>Secondary Contact Title</b> Secondary Contact Title <input type="text" value="Vice President"/>
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<b>14</b>	<b>Secondary Contact Email</b> Please enter a valid email address that will definitely reach the Secondary Contact. <input type="text" value="mg@arrowsteelwindow.com"/>
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1 5	<b>Secondary Contact Phone</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).  Please provide the accurate and current phone number where the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly. <input type="text" value="6317568661"/>
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1 6	<b>Secondary Contact Fax</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="6317568622"/>
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1 7	<b>Secondary Contact Mobile</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="5164582772"/>
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1 8	<b>Administration Fee Contact Name</b> Please identify the individual who will be responsible for all payment, accounting, and other matters related to Vendor's TIPS Administration Fee due to TIPS for the duration of the contract. <input type="text" value="Michele D'Agostino-Huertas"/>
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1 9	<b>Administration Fee Contact Email</b> Please enter a valid email address that will definitely reach the Administration Fee Contact. <input type="text" value="mdh@arrowsteelwindow.com"/>
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2 0	<b>Administration Fee Contact Phone</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="6317568661"/>
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2 1	<b>Purchase Order and Sales Contact Name</b> Please identify the individual who will be responsible for receiving and processing purchase orders and sales under the TIPS Contract. <input type="text" value="Michele D'Agostino-Huertas"/>
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2 2	<b>Purchase Order and Sales Contact Email</b> Please enter a valid email address that will definitely reach the Purchase Order and Sales Contact. <input type="text" value="mdh@arrowsteelwindow.com"/>
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2 3	<b>Purchase Order and Sales Contact Phone</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="6317568661"/>
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2 4	<b>Company Website</b> Company Website (Format - www.company.com) <input type="text" value="www.arrowsteelwindow.com"/>
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2  
5

**Entity D/B/A's and Assumed Names**

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

In this question, please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the Legal Name under which you respond to this solicitation unless you organize otherwise with TIPS after award.

None

2  
6

**Primary Address**

Primary Address

133 East Carmans Road

2  
7

**Primary Address City**

Primary Address City

East Farmingdale

2  
8

**Primary Address State**

Primary Address State (2 Digit Abbreviation)

NY

2  
9

**Primary Address Zip**

Primary Address Zip

11735

3  
0

**Search Words Identifying Vendor**

Please list all search words and phrases to be included in the TIPS database related to your entity. **Do not** list words which are not associated with the bid category/scope (See bid title for general scope). This will help users find you through the TIPS website search function. You may include product names, manufacturers, specialized services, and other words associated with the scope of this solicitation.

Aluminum curtain wall, aluminum storefronts, aluminum windows, aluminum doors and hardware, FRP doors and hardware, glass and glazing, fire rated windows and doors.

3  
1

**Certification of Vendor Residency (Required by the State of Texas)**

Does Vendor's parent company or majority owner:

(A) have its principal place of business in Texas; **or** (B) employ at least 500 persons in Texas?

Texas Education Code Section 44.031 requires that this information be considered in evaluation for certain contracts. However, Vendor response does not affect points, scoring, or potential award.

No

3  
2

**Vendor's Principal Place of Business (City)**

In what city is Vendor's principal place of business located?

East Farmingdale

<b>3</b> <b>3</b>	<b>Vendor's Principal Place of Business (State)</b> In what state is Vendor's principal place of business located? <input type="text" value="New York"/>
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<b>3</b> <b>4</b>	<b>Vendor's Years in Business</b> How many years has the business submitting this proposal been operating in its current capacity and field of work? <input type="text" value="56"/>
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<b>3</b> <b>5</b>	<b>Certification Regarding Entire TIPS Agreement for Part 1 and Part 2 Contracts</b> <p>This is a two part solicitation. Part 1 is solicited for TIPS sales that are not considered a "public work" construction project. Part 1 permits the sale of goods and non-construction/non-"public work" services such as maintenance and minor repairs. Part 2 Job Order Contract (JOC) is solicited for projects considered by your TIPS Member Customers to be a "public work" construction project. The determination of whether or not a TIPS sale amounts to a "public work" construction project requiring a Part 2 JOC contract is made by the TIPS Member Customer at the time of each TIPS sale. Thus, Vendors are encouraged to respond to both Parts 1 and 2 in case your TIPS Member Customers require that a sale be made under one Part or the other. However, responding to both Parts is not required. If Vendor responds and is awarded to both Parts, Vendor will have one contract for Part 1 and a separate contract for Part 2.</p> <p>Vendor agrees that, if awarded, Vendor's final TIPS Contract(s), for either Part 1, Part 2, or both Parts, will consist of the provisions set forth in the corresponding finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in the Agreement; (2) Any addenda or clarifications issued in relation to the corresponding TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the corresponding TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract.</p> <p>Does Vendor agree? <input type="text" value="Yes, Vendor agrees"/></p>
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6** Minimum Percentage Discount Offered to TIPS Members on all Part 1 Goods and Services (READ CAREFULLY)

**Please read thoroughly and carefully as an error on your response can render your Part 1 contract award unusable. If you are not proposing on Part 1, you must still respond to proceed but it will not apply to you unless you decide to propose and are awarded on Part 1.**

TIPS Members often turn to TIPS Contracts for ease of use and to receive discounted pricing.

***If awarded on Part 1, what is the minimum percentage discount that you can offer TIPS Members off of all Part 1 goods and service pricing (whether offered through Pricing Form 1, Pricing Form 2, or in another accepted format) that you offer? Only limited goods/services specifically identified and excluded from this discount in Vendor's original proposal may be excluded from this discount.***

Vendor must respond with a percentage from 0%-100%. The percentage discount that you input below will be applied to your Part 1 "Catalog Pricing", as defined in the solicitation, for all TIPS Sales made during the life of the contract. You cannot alter this percentage discount once the solicitation legally closes. You will always be required to discount every TIPS Sale by the percentage included below with the exception of limited goods/services specifically identified and excluded from this discount in Vendor's original proposal. If you add goods or services to your "Catalog Pricing" during the life of the contract, you will be required to sell those new items with this discount applied.

**Example:** In this example, you enter a 10% minimum percentage discount below. In year-one of your TIPS Contract, your published Part 1 "Catalog Pricing" (website/store/published pricing) for "Material A" is \$100 and for "Material A Maintenance Service" is \$100. In this example, you must sell those items under the Part 1 TIPS Contract at the proposed 10% discounted price of: "Material A" - \$90, "Material A Maintenance Service" - \$90. In year two of your TIPS Contract, you update your Part 1 "Catalog Pricing" with the market. You add "Material B" to your "Catalog Pricing" for \$200 and have increased the price of "Material A" to \$110 and the price of "Material A Maintenance Service" to \$110. In this example, after the Part 1 "Catalog Pricing" update, you must still sell those items under the Part 1 TIPS Contract at the proposed 10% discounted price of: "Material A" - \$99, "Material A Maintenance Service" - \$99, and "Material B" - \$180.00.

With the exception of limited goods/services specifically identified and excluded from this discount in Vendor's original proposal, if you cannot honor the discount on all Part 1 goods and items now included or which may be added in the future with certainty, then you should offer a lesser discount percentage below.

***If awarded on Part 1, what is the minimum percentage discount that you can offer TIPS Members off of all Part 1 goods and service pricing (whether offered through Pricing Form 1, Pricing Form 2, or in another accepted format) that you offer?***

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7** Honoring Vendor's Part 1 Minimum Percentage Discount

Vendor is asked in these Attribute Questions to provide a Minimum Percentage Discount offered to TIPS Members on all Part 1 goods and services sold under the TIPS Contract. If proposing on Part 1, points will be assigned for your response and scoring of your Part 1 proposal will be affected. On your Part 1 evaluation, a "YES" answer will be awarded the maximum 10 points and a "NO" answer will be awarded 0 points. If you are not proposing on Part 1, you must still answer to proceed but this term will not apply to you or affect your scoring unless you decide to propose and are awarded on Part 1.

If awarded on Part 1, does Vendor agree to honor the Minimum Percentage Discount off of their TIPS "Catalog Pricing" that Vendor proposed for all TIPS Sales made for the duration of the TIPS Contract?

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**Volume and Additional Discounts**

In addition to the Part 1 Minimum Percentage Discount proposed herein, does Vendor ever expect and intend to offer additional, greater, or volume discounts to TIPS Members?

If proposing on Part 1, point(s) may be assigned for your response in the Part 1 category of "Pricing" during scoring and evaluation. If you are not proposing on Part 1, you must respond to proceed but no points will be assigned for your response.

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**Part 1 "Catalog Pricing" and Pricing Requirements**

**This is a requirement of the Part 1 TIPS Contract and is non-negotiable. If you are not proposing on Part 1, you must still agree to proceed but it will not apply to you unless you decide to propose and are awarded on Part 1.**

In this solicitation and resulting contract, Part 1 "Catalog Pricing" shall be defined as:

"The then available list of goods or services, in the most current listing regardless of date, that takes the form of a catalog, price list, price schedule, shelf-price or other viewable format that:

- A. is regularly maintained by the manufacturer or Vendor of an item; and
- B. is either published or otherwise available for review by TIPS or a customer during the purchase process;
- C. to which the Minimum Percentage Discount proposed by the proposing Vendor may be applied.

If awarded on Part 1 of this TIPS Contract, for the duration of the contract, Vendor agrees to provide, upon request, their then current "Catalog Pricing." Or, in limited circumstances where Vendor has proposed the Percentage Mark-Up method of pricing in this proposal, proof of Vendor's "cost" may be accepted by TIPS in place of catalog pricing.

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**REQUIRED FOR PART 2 - Vendor's Regular Hours RS Means Coefficient**

What is Vendor's Regular Hours RS Means Coefficient? **If you do not intend to propose on Part 2, you may enter a "0" in order to continue.**

The RS Means Price Book is a unit price book adjusted for different geographic areas by using the City Cost Index for each location. You may visit <https://www.rsmeans.com> for more information.

You must review the TIPS Part 2 RS Means JOC Pricing Explanation & Rubric under the "Attachments" tab prior to responding herein.

To propose the RS Means Price Book pricing exactly, Vendor would insert a 1.0 as their Regular Hours RS Means Coefficient below, to propose a 5% discount off of the RS Means Price Book Vendor would insert a .95 as their Regular Hours RS Means Coefficient below. To see the full scoring rubric and use TIPS scoring calculator, please view the TIPS RS Means JOC Pricing Explanation & Rubric under the "Attachments" tab.

Insert Vendor's Regular Hours RS Means Coefficient below. **If you do not intend to propose on Part 2, you may enter a "0" in order to continue.**

**4**  
**1** **REQUIRED FOR PART 2 - Vendor's After-Hours RS Means Coefficient**

What is Vendor's After-Hours RS Means Coefficient? **If you do not intend to propose on Part 2, you may enter a "0" in order to continue.**

The RS Means Price Book is a unit price book adjusted for different geographic areas by using the City Cost Index for each location. You may visit <https://www.rsmeans.com> for more information.

You must review the TIPS Part 2 RS Means JOC Pricing Explanation & Rubric under the "Attachments" tab prior to responding herein.

The most common After-Hours RS Means Coefficient is "time-and-a-half" of the standard RS Means Unit Price Book. For example, if Vendor's Regular Hours Coefficient above is .95, Vendor would assert an After-Hours RS Means Coefficient of 1.45 for "time-and-a-half" pricing. To see the full scoring rubric and use TIPS scoring calculator, please view the TIPS RS Means JOC Pricing Explanation & Rubric under the "Attachments" tab.

Insert Vendor's After-Hours RS Means Coefficient below. **If you do not intend to propose on Part 2, you may enter a "0" in order to continue.**

**4**  
**2** **REQUIRED FOR PART 2 - Vendor's Percentage Markup of Items not Pre-Priced within the RS Means Price Book**

Here, Vendor must enter a percentage, not a coefficient. **If you do not intend to propose on Part 2, you may enter a "0" in order to continue.**

If Vendor sells items which cannot be found in the RS Means Price Book, at what Percentage Markup does Vendor agree to sell those Non Pre-Priced items? This is a maximum Percentage Markup and Vendor may always offer customers a lesser markup.

**Example:** In this example, Vendor is selling a project to a TIPS Member school district and some of the contract pricing for special materials cannot be verified because it cannot be found in the RS Means Price book. Vendor may sell those specialty items to the Member this percentage markup from cost. In this example, if one of the specialty items cost Vendor \$100 from the manufacturer and Vendor proposed a Percentage Markup of 30% here, then Vendor could sell the item to the TIPS Customer for \$130.00 or less in this example.

Vendor must provide TIPS with manufacturer documentation reflecting the cost of any non pre-priced item at the time of the TIPS sale so that TIPS can verify that the proposed percentage markup is being honored.

What is Vendor's Percentage Markup of items not Pre-Priced within the RS Means Price Book? **If you do not intend to propose on Part 2, you may enter a "0" in order to continue.**



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#### REQUIRED FOR PART 2 - TIPS Pricing and Line Item Estimate Pricing Requirements

**This is a requirement of the Part 2 TIPS Contract and is non-negotiable. If you are not proposing on Part 2, you must still agree to proceed but it will not apply to you unless you decide to propose and are awarded on Part 2.**

Vendor must respond to the required pricing attributes above seeking RS Means coefficients and a percentage markup if seeking to propose on Part 2.

If awarded on Part 2 of this TIPS Contract, for the duration of the contract, Vendor agrees to provide a RS Means line-item estimate to TIPS for each anticipated Part 2 TIPS project or sale. Or, in limited circumstances in contracts where Xactimate pricing is also expressly permitted and Vendor also submits Xactimate pricing under Part 2, Vendor may instead provide an Xactimate line-item estimate to TIPS. However, Vendor agrees that when a TIPS Member Customer seeks a quote for a Part 2 TIPS sale, Vendor will always supply a line-item estimate to TIPS for review and approval.

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#### EXCEPTIONS & DEVIATIONS TO TIPS STANDARD TERMS AND CONDITIONS

Vendor agrees that, if awarded, Vendor's final TIPS Part 1 and/or Part 2 Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The corresponding TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the corresponding TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the corresponding TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract. In the event of conflict between the terms of the finalized Vendor Agreement and one of the incorporated documents the terms and conditions which are in the best interest of governmental/qualifying non-profit TIPS Members shall control at TIPS sole discretion.

If Vendor responds, "No, Vendor does not agree" to this Attribute, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration. This is the only proper way to submit proposed deviations for TIPS consideration. TIPS reserves the right to accept, decline, or modify Vendor's requested negotiated terms. For this reason, answering "No, Vendor does not agree" may ultimately delay or prevent award.

Does Vendor agree with TIPS standard terms and conditions as presented in the TIPS solicitation document (RFP, RCSP, RFQ, or other) and the TIPS Vendor Agreement document?

**4** **TIPS Sales Reporting Requirements**

**5** **This is a requirement of the TIPS Contract and is non-negotiable.**

By submitting this proposal, Vendor certifies that Vendor will properly report all TIPS sales. With the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either:

(1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at tipspo@tips-usa.com with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or;

(2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement.

No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion.

**4** **TIPS Administration Fee Requirement and Acknowledgment**

**6** **This is a requirement of the TIPS Contract and is non-negotiable.**

The collection of fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The TIPS Administration Fee is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of each TIPS Sale legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding RFP or RCSP document. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale.

By submitting a proposal, Vendor agrees that it has read, understands, and agrees to the published TIPS Administration Fee amount, calculation, and payment requirements. By submitting a proposal Vendor further confirms that all TIPS Pricing includes the TIPS Administration Fee and Vendor will not show adding the TIPS Administration Fee as a charge or line-item in any TIPS Sale.

**4** **TIPS Member Access to Vendor Proposal & Documentation**

**7** **This is a requirement of the TIPS Contract and is non-negotiable.**

Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's express consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation to TIPS Members or by TIPS Members. By submitting this proposal, Vendor certifies the foregoing.

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**Non-Collusive Bidding Certificate**

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submission of this proposal, the Vendor certifies that:

- 1) This proposal has been independently arrived at without collusion with any other entity, bidder, or with any competitor;
- 2) This proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other bidder, competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to modify, submit, or not to submit a bid or proposal; and
- 4) The person signing this bid or proposal certifies that they are duly authorized to execute this proposal/contract on behalf of Vendor and they have fully informed themselves regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the bidder as well as to the person signing in its behalf;

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**Antitrust Certification Statements (Tex. Government Code § 2155.005)**

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submission of this bid or proposal, Vendor certifies under penalty of perjury of the laws of the State of Texas that:

- (1) I am duly authorized to execute this proposal/contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Vendor) identified herein;
- (2) In connection with this proposal, neither I nor any representative of Vendor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- (3) In connection with this proposal, neither I nor any representative of the Vendor has violated any federal antitrust law;
- (4) Neither I nor any representative of Vendor has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

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**Limitation on Out-of-State Litigation - Texas Business and Commerce Code § 272**

**This is a requirement of the TIPS Contract and is non-negotiable.**

Texas Business and Commerce Code § 272 prohibits a construction contract, or an agreement collateral to or affecting the construction contract, from containing a provision making the contract or agreement, or any conflict arising under the contract or agreement, subject to another state's law, litigation in the courts of another state, or arbitration in another state. If included in Texas construction contracts, such provisions are voidable by a party obligated by the contract or agreement to perform the work.

By submission of this proposal, Vendor acknowledges this law and ***if Vendor enters into a construction contract with a Texas TIPS Member*** under this procurement, Vendor certifies compliance.

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### **Required Confidentiality Claim Form**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS provides the required TIPS Confidentiality Claim Form in the "Attachments" section of this solicitation. Vendor must execute this form by either signing and waiving any confidentiality claim, or designating portions of Vendor's proposal confidential. If Vendor considers any portion of Vendor's proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form.

If TIPS receives a public information act or similar request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor documents deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion.

Notwithstanding any other Vendor designation of Vendor's proposal as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's agreement that proper execution of the required TIPS Confidentiality Claim Form is the only way to assert any portion of Vendor's proposal as confidential.

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### **Non-Discrimination Statement and Certification**

**This is a requirement of the TIPS Contract and is non-negotiable.**

In accordance with Federal civil rights law, all U.S. Departments, including but not limited to the USDA, USDE, FEMA, are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by federal funds (not all bases apply to all programs).

Vendor certifies that Vendor will comply with applicable Non-Discrimination and Equal Opportunity provisions set forth in TIPS Member Customers' policies and other regulations at the local, state, and federal levels of governments.

Yes, I certify

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### **Limitation of Vendor Indemnification and Similar Clauses**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, is prohibited from indemnifying third-parties (pursuant to the Article 3, Section 52 of the Texas Constitution) except as otherwise specifically provided for by law or as ordered by a court of competent jurisdiction. Article 3, Section 52 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " and the Texas Attorney General has opined that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Thus, contract clauses which require TIPS to indemnify Vendor, pay liquidated damages, pay attorney's fees, waive Vendor's liability, or waive any applicable statute of limitations must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas."

Does Vendor agree?

Yes, I Agree

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**Alternative Dispute Resolution Limitations**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, does not agree to binding arbitration as a remedy to dispute and no such provision shall be permitted in this Agreement with TIPS. Vendor agrees that any claim arising out of or related to this Agreement, except those specifically and expressly waived or negotiated within this Agreement, may be subject to non-binding mediation at the request of either party to be conducted by a mutually agreed upon mediator as prerequisite to the filing of any lawsuit arising out of or related to this Agreement. Mediation shall be held in either Camp or Titus County, Texas. Agreements reached in mediation will be subject to the approval by the Region 8 ESC's Board of Directors, authorized signature of the Parties if approved by the Board of Directors, and, once approved by the Board of Directors and properly signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Does Vendor agree?

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**No Waiver of TIPS Immunity**

**This is a requirement of the TIPS Contract and is non-negotiable.**

Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

Does Vendor agree?

Yes, Vendor agrees

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**Payment Terms and Funding Out Clause**

**This is a requirement of the TIPS Contract and is non-negotiable.**

Vendor agrees that TIPS and TIPS Members shall not be liable for interest or late-payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding-Out Clause: Vendor agrees to abide by the applicable laws and regulations, including but not limited to Texas Local Government Code § 271.903, or any other statutory or regulatory limitation of the jurisdiction of any TIPS Member, which requires that contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

Does Vendor agree?

Yes, Vendor agrees

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**Certification Regarding Prohibition of Certain Terrorist Organizations (Tex. Gov. Code 2270)**

Vendor certifies that Vendor is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

Does Vendor certify?

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**Certification Regarding Prohibition of Boycotting Israel (Tex. Gov. Code 2271)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any agreement with a TIPS Member under this procurement has value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Vendor certifies, where applicable, that neither the Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any, boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory but does not include an action made for ordinary business purposes.

When applicable, does Vendor certify?

Yes, Vendor certifies

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**Certification Regarding Prohibition of Contracts with Certain Foreign-Owned Companies (Tex. Gov. Code 2274)**

Certain public entities are prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant Vendor direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by a customer for product warranty and support purposes.

Vendor certifies that neither it nor its parent company nor any affiliate of Vendor or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country.

For purposes of this certification, "critical infrastructure" means "a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." Vendor certifies that Vendor will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

When applicable, does Vendor certify?

Yes, Vendor certifies

**60 Certification Regarding Prohibition of Discrimination Against Firearm and Ammunition Industries (Tex. Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has at least ten (10) full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities have a value of at least \$100,000 that is paid wholly or partly from public funds; (d) the Agreement is not excepted under Tex. Gov. Code 2274 and (e) the purchasing public entity has determined that Vendor is not a sole-source provider or the purchasing public entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association.

For purposes of this Agreement, “discriminate against a firearm entity or firearm trade association” shall mean, with respect to the entity or association, to: “(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.”

“Discrimination against a firearm entity or firearm trade association” does not include: “(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.”

When applicable, does Vendor certify?

Yes, Vendor certifies

**61 Certification Regarding Termination of Contract for Non-Compliance (Tex. Gov. Code 552.374)**

If Vendor is not a governmental body and (a) this Agreement or any Supplemental Agreement with a public entity has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities; or (b) this Agreement or any Supplemental Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities in their fiscal year, the following certification shall apply; otherwise, this certification is not required.

As required by Tex. Gov. Code 552.374, the following statement is included in the RFP and the Agreement (unless the Agreement is (1) related to the purchase or underwriting of a public security; (2) is or may be used as collateral on a loan; or (3) proceeds from which are used to pay debt service of a public security of loan): “The requirements of Subchapter J, Chapter 552, Government Code, may apply to this solicitation and Agreement and the Vendor agrees that this Agreement and any applicable Supplemental Agreement can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.”

Pursuant to Chapter 552 of the Texas Government Code, Vendor certifies that Vendor shall: (1) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member for the duration of the Agreement; (2) promptly provide to TIPS or the purchasing TIPS Member any contracting information related to the Agreement that is in the custody or possession of Vendor on request of TIPS or the purchasing TIPS Member; and (3) on completion of the Agreement, either (a) provide at no cost to TIPS or the purchasing TIPS Member all contracting information related to the Agreement that is in the custody or possession of Vendor, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member.

When applicable, does Vendor certify?

Yes, Vendor certifies



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**Certification Regarding Prohibition of Boycotting Certain Energy Companies (Tex. Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities has a value of \$100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, do not boycott energy companies and will not boycott energy companies during the term of the Agreement or any applicable Supplemental Agreement.

For purposes of this certification the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit.

The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." (See Tex. Gov. Code 809.001).

When applicable, does Vendor certify?

Yes, Vendor certifies

6  
3

**Felony Conviction Notice - Texas Education Code 44.034**

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states, "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Subsection (b) states, "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Subsection (c) states, "This section does not apply to a publicly held corporation."

Vendor certifies one of the following:

- A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable, or;
- B. My firm is not owned nor operated by anyone who has been convicted of a felony, or;
- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony.

If Vendor responds with Option (C), Vendor is required to provide information in the next attribute.

B. My firm is not owned nor operated by felon.

**64 Felony Conviction Notice - Texas Education Code 44.034 - Continued**

If Vendor selected Option (C) in the previous attribute, Vendor must provide the following information herein:

1. Name of Felon(s)
2. The Felon(s) title/role in Vendor's entity, and
3. Details of Felon(s) Conviction(s).

No response

**65 Conflict of Interest Questionnaire Requirement**

Vendor agrees that it has looked up, read, and understood the current version of Texas Local Government Code Chapter 176 which generally requires disclosures of conflicts of interests by Vendor hereunder if Vendor:

- (1) has an employment or other business relationship with a local government officer of our local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of our local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of our local governmental entity.
- (4) Any other financial, commercial, or familial relationship with our local government that may warrant reporting under this statute.

Does Vendor certify that it has NO reportable conflict of interest?

Yes, Vendor certifies - VENDOR HAS NO CONFLICT

**66 Conflict of Interest Questionnaire Requirement - Form CIQ - Continued**

If you responded "No, Vendor does not certify - VENDOR HAS CONFLICT" to the Conflict of Interest Questionnaire question above, you are required by law to fully execute and upload the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ." If you accurately claimed no conflict above, you may disregard the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ."  
Have you uploaded this form if applicable?

Not Applicable

**67 Upload of Current W-9 Required**

Vendors are required by TIPS to upload a current, accurate W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

**68 Regulatory Good Standing Certification**

Does Vendor certify that its entity is in good standing will all government entities and agencies, whether local, state, or federal, that regulate any aspect of Vendor's field of work or business operations?

If Vendor selects "No", Vendor must provide explanation on the following attribute question.

Yes, Vendor certifies

**6** **Regulatory Good Standing Certification - Explanation - Continued**

**9**

If Vendor responded to the prior attribute that "No", Vendor is not in good standing, Vendor must provide an explanation of that lack of good standing here for TIPS consideration.

*No response*

**7** **Instructions Only - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

**0**

**Instructions for Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

**7**  
**1** **Suspension or Debarment Certification**

Read the instructions in the attribute above and then answer the following accurately.

Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Does Vendor certify?

Yes, Vendor certifies

**7**  
**2** **Vendor Certification of Criminal History - Texas Education Code Chapter 22**

Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district pursuant to this law.

**DEFINITIONS**

**Covered employees:** Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students.

**Disqualifying criminal history:** Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

**Vendor certifies:**

**NONE (Section A):** None of the employees of Vendor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Vendor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided under this procurement.

**OR**

**SOME (Section B):** Some or all of the employees of Vendor and any subcontractor are covered employees. If this box is checked, I further certify that: (1) Vendor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history; (2) If Vendor receives information that a covered employee subsequently has a reported criminal history, Vendor will immediately remove the covered employee from contract duties and notify the purchasing entity in writing within 3 business days; (3) Upon request, Vendor will provide the purchasing entity with the name and any other requested information of covered employees so that the purchasing entity may obtain criminal history record information on the covered employees; (4) If the purchasing entity objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Vendor agrees to discontinue using that covered employee to provide services at the purchasing entity.

Which option does Vendor certify?

Yes, I certify - NONE (Section A)

**7  
3** Certification Regarding "Choice of Law" Terms with TIPS Members

Vendor agrees that if any "Choice of Law" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the sales agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
4** Certification Regarding "Venue" Terms with TIPS Members

Vendor agrees that if any "Venue" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution is shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
5** Certification Regarding "Automatic Renewal" Terms with TIPS Members

Vendor agrees that no TIPS Sale may incorporate an "Automatic Renewal" clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing a Supplemental Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
6 Certification Regarding "Indemnity" Terms with TIPS Members**

Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
7 Certification Regarding "Arbitration" Terms with TIPS Members**

Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may **not** require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
8 2 CFR PART 200 AND FEDERAL CONTRACT PROVISIONS EXPLANATION**

TIPS and TIPS Members will sometimes seek to make purchases with federal funds. In accordance with 2 C.F.R. Part 200 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as "EDGAR"), Vendor's response to the following questions labeled "2 CFR Part 200 or Federal Provision" will indicate Vendor's willingness and ability to comply with certain requirements which may be applicable to TIPS purchases paid for with federal funds, if accepted by Vendor.

Your responses to the following questions labeled "2 CFR Part 200 or Federal Provision" will dictate whether TIPS can list this awarded contract as viable to be considered for a federal fund purchase. **Failure to certify all requirements labeled "2 CFR Part 200 or Federal Provision" will mean that your contract is listed as not viable for the receipt of federal funds. However, it will not prevent award.**

If you do enter into a TIPS Sale when you are accepting federal funds, the contract between you and the TIPS Member will likely require these same certifications.

**7 2 CFR Part 200 or Federal Provision - Vendor Willingness to Accept Federal Funds**

This certification is not required by federal law. However, TIPS Members are public entities and qualifying non-profits which often receive federal funding and grants (ESSER, CARES Act, EDGAR, etc.) **Accepting such funds often requires additional required certifications and responsibilities for Vendor.** The following attribute questions include these required certifications. Your response to this questions, the following certifications, and other factors will determine whether your contract award will be deemed as eligible for federal fund expenditures by TIPS Members.

If awarded, is Vendor willing to accept payment for goods and services offered under this contract paid for by a TIPS Member with federal funds?

**8 2 CFR Part 200 or Federal Provision - Contracts**

Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR § 200.320), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

**8 2 CFR Part 200 or Federal Provision - Termination**

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The Vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?



**8**  
**2** **2 CFR Part 200 or Federal Provision - Clean Air Act**

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

Yes, Vendor agrees

**8**  
**3** **2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment**

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Does Vendor agree?

Yes, Vendor agrees

**8 4 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued**

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**The undersigned certifies, to the best of his or her knowledge and belief, that:**

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does Vendor certify that it has NOT lobbied as described herein?

Yes, Vendor certifies - NO Reportable Lobbying

**8 5 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued**

If you answered "No, Vendor does not certify - Lobbying to Report" to the above attribute question, you must download, read, execute, and upload the attachment entitled "Disclosure of Lobbying Activities - Standard Form - LLL", as instructed, to report the lobbying activities you performed or paid others to perform.

**8 6 2 CFR Part 200 or Federal Provision - Federal Rule**

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify compliance?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Procurement of Recovered Materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with these provisions?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Rights to Inventions**

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor certify?

Yes, Vendor certifies

**8 2 CFR Part 200 or Federal Provision - Domestic Preferences for Procurements and Compliance with Buy America Provisions**

As appropriate and to the extent consistent with law, TIPS Member Customers, to the greatest extent practicable under a Federal award, may provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. For purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. For purposes of 2 CFR Part 200.322,

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

"Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does Vendor Certify?

**9 2 CFR Part 200 or Federal Provision - Ban on Foreign Telecommunications**

ESC 8 and TIPS Members are prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor certify?

**9 2 CFR Part 200 or Federal Provision - Contract Cost & Price**

1 For contracts more than the simplified acquisition threshold currently set at \$250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor's TIPS pricing and pricing terms proposed.

Does Vendor certify?

Yes, Vendor certifies

**9 2 CFR Part 200 or Federal Provision - Equal Employment Opportunity**

2 Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members on any federally assisted construction contract, the equal

opportunity clause is incorporated by reference here.

Does Vendor Certify?

Yes, Vendor certifies

**9 2 CFR Part 200 or Federal Provision - Davis Bacon Act Compliance**

3 Texas Statute requires compliance with Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146- 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non- Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to state and federal requirements, Vendor certifies that it will be in compliance with all applicable Davis-Bacon Act provisions if/when applicable.

Does Vendor certify?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Contract Work Hours and Safety Standards**

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award for all contracts resulting from this procurement process, Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does Vendor certify?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - FEMA Fund Certification & Certification of Access to Records**

**If and when** Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:

(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract, or any contract resulting from this procurement, for the purposes of making audits, examinations, excerpts, and transcriptions. This right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract.

Does Vendor certify?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Certification of Compliance with the Energy Policy and Conservation Act**

When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any state mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.

Does Vendor certify?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Certification of Compliance with Never Contract with the Enemy**

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$50,000.00, within the period of performance, and which are performed outside of the United States, including U.S. territories, are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. Per 2 CFR part 183, in the situation specified, ESC 8 and TIPS Members shall terminate any contract or agreement resulting from this procurement which violates the Never Contract with the Enemy regulation in 2 CFR part 183, including if Vendor is actively opposing the United States or coalition forces involved in a contingency operation in which members of the the Armed Forces are actively engaged in hostilities. Vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIS) for any contract terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply.

Does Vendor certify?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Certification of Compliance with EPA Regulations**

For contracts resulting from this procurement, in excess of \$100,000.00 and paid for with federal funds, Vendor certifies that Vendor will comply with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does Vendor certify?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Record Retention Requirements**

For contracts resulting from this procurement, paid for by ESC 8 or TIPS Members with federal funds, Vendor certifies that Vendor will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after final expenditure or financial reports, as applicable, and all other pending matters are closed.

Does Vendor certify?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

If you respond "Yes", you must respond to the following attribute question accurately. If you respond "No", you may skip the following attribute question.

YES

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**2 CFR Part 200 or Federal Provision - If "Yes" Response to Above Attribute - Continued - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

**Only respond to this question if you responded "Yes" to the attribute question directly above. Skip this question if you responded "No" to the attribute question directly above.**

Does Vendor certify that it will follow the following affirmative steps? Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

Does Vendor certify?

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**ACKNOWLEDGMENT & BINDING CORPORATE AUTHORITY**

By submitting this proposal, the individual(s) submitting on behalf of the Vendor certify that they are authorized by Vendor to complete and submit this proposal on behalf of Vendor and that this proposal was duly submitted on behalf of Vendor by authority of its governing body, if any, and within the scope of its corporate powers.

Vendor further certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if necessary, Vendor has consulted with counsel in understanding all portions of this solicitation.



TIPS 240104 Trades, Labor, and Materials (2 Part with JOC)	Arrow Steel Window Corp.
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**TIPS REFERENCE FORM**

All requested information must be typed and uploaded in Excel format. TIPS will reach out via the emails provide  
handwrite or upload in any format other than Excel. Emails provided must be current and active. Do not include T  
provide must be paying customers, not affiliates/partners/manufacturers/resellers, etc.



You must provide below at least five (5) references from five different entity customers, preferably government or from your vendor entity within the last three years.

Customer Entity Name	Customer Contact Name
Great Neck Union Free School District	Alfredo Cavallaro, Director of Buildings & Grounds
Plainview Old Bethpage Central School District	Andrew Ward, Director of School Facilities & Operations
Smithtown Central School District	Daniel Leddy, Director of Facilities
Yonkers Public Schools	Lee Pavone, P.E., Sr. Mechanical Engineer
Plainedge Public Schools	Bret Prochazka, Director of Facilities
Lindenhurst Union Free School District	Robert Cozzetto, Director of Facilities, Health & Safety
Hewlett-Woodmere Public School	Kim Parahus, Director of School Facilities & Operations III
Farmingdale Union Free School District	Martin DarConte, Supervision of Operations & Maintenance
New Rochelle City School District	Keith Watkins, CDF, Director of Facilities III

ed so please ensure that they are typed and accurate. Do not  
IPS/Region 8 employees as a reference. The entities that you

non-profit entities, who have purchased goods or services

Valid Contact Email	Valid Contact Phone
<a href="mailto:acavallaro@greatneck.k12.ny.us">acavallaro@greatneck.k12.ny.us</a>	516-967-5911
<a href="mailto:award@pobschools.org">award@pobschools.org</a>	516-512-2291
<a href="mailto:dleddy@smithtown.k12.ny.us">dleddy@smithtown.k12.ny.us</a>	631-780-2819
<a href="mailto:lpavone@yonkerspublicschools.org">lpavone@yonkerspublicschools.org</a>	914-424-2779
<a href="mailto:jbrett.prochazka@plainedgeschools.org">jbrett.prochazka@plainedgeschools.org</a>	516-992-7470
<a href="mailto:rcozzetto@lufsd.org">rcozzetto@lufsd.org</a>	631-867-3120
<a href="mailto:kparahus@hewlett-woodmere.net">kparahus@hewlett-woodmere.net</a>	516-792-4805
<a href="mailto:mdarconte@farmingdaleschools.org">mdarconte@farmingdaleschools.org</a>	516-434-5060
<a href="mailto:kwatkins@nredlearn.org">kwatkins@nredlearn.org</a>	914-576-4300

**REQUIRED CONFIDENTIALITY CLAIM FORM**

(VENDOR MUST COMPLETE THE FOLLOWING VENDOR INFORMATION)

Vendor Entity Name: Arrow Steel Window Corp.  
 Vendor Authorized Signatory Name: Chris Galati  
 Vendor Authorized Signatory Title: Vice President  
 Vendor Authorized Signatory Email: cg@arrowsteelwindow.com  
 Vendor Address: 133 East Carmans Road  
 City: East Farmingdale State: NY Zip Code: 11735

Vendor agrees that it is voluntarily providing its data (including but not limited to: Vendor information, Vendor documentation, Vendor’s proposal, Vendor pricing submitted or provided to TIPS, TIPS contract documents, TIPS correspondence, Vendor logos and images, Vendor’s contact information, Vendor’s brochures and commercial information, Vendor’s financial information, Vendor’s certifications, and any other Vendor information or documentation submitted to TIPS by Vendor and its agents) (Hereinafter, “Vendor Data”) to TIPS. Vendor understands and agrees that TIPS is a government entity subject to public information laws including but not limited to Texas Government Code (TGC) Chapter 552. Vendor agrees that regardless of confidentiality designations herein, Vendor’s submission of a proposal constitutes Vendor’s consent to the disclosure and release of Vendor’s Data and comprehensive proposal, including any information deemed confidential or proprietary herein, to and by TIPS Members.

Notwithstanding the foregoing permissible release to TIPS Members, if Vendor considers any portion of Vendor’s proposal to be otherwise confidential and not subject to public disclosure pursuant to public information laws, including but not limited to TGC Chapter 552, Vendor must properly execute *Option 1 only* below, attach to this PDF all documents and information that Vendor deems confidential, and upload the consolidated documentation. Regardless of the Option selected below, this form must be completed and uploaded to the “Response Attachments” section of the eBid System entitled “Required Confidentiality Claim Form.” Execution and submission of this form is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a request, a Public Information Request, or subpoena. If TIPS receives a request, any responsive documentation not deemed confidential by you through proper execution of Option 1 of this form will be automatically released. For information deemed confidential by you through proper execution of Option 1 of this form, TIPS will follow procedures of controlling statute(s) regarding withholding that documentation and shall not be liable for any release of information required by law, including Attorney General opinion or court order.

(VENDOR MUST COMPLETE ONE OF THE TWO OPTIONS AND UPLOAD IN THE EBID SYSTEM)

**OPTION 1 – DESIGNATING CONFIDENTIAL MATERIALS – YES, VENDOR HAS ATTACHED CONFIDENTIAL MATERIALS**

(Confirm each bullet point and sign below)

- Vendor claims some Vendor Data confidential to the extent permitted by TGC Chapter 552 and other applicable law.
- Vendor attached to this PDF all potentially confidential Vendor Data and listed the number of attached pages below.
- Vendor’s authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Number of pages attached deemed confidential: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

**OPTION 2 – WAIVER OF CONFIDENTIALITY – NO, VENDOR HAS NOT ATTACHED CONFIDENTIAL MATERIALS**

(Confirm each bullet point and sign below)

By signing for Option 2 below, Vendor expressly waives any confidentiality claim for all Vendor Data submitted in relation to this proposal and resulting contract. Vendor confirms that TIPS may freely release Vendor Data submitted in relation to this proposal or resulting contract to any requestor. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of Vendor Data by TIPS or TIPS Members.

- Vendor’s authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Authorized Signature:  \_\_\_\_\_

## **VENDOR SUPPLEMENTAL INFORMATION**

TIPS permits Vendors to submit supplemental documentation and information (“Vendor Supplemental Information”) with their proposals to display to TIPS Member Customers their qualifications, offerings, and special terms. The following documents are for marketing and informational purposes only. They are not terms of Vendor’s TIPS Contract. If the Vendor Supplemental Information herein contains any warranties, terms, or conditions, the TIPS Member Customer may review and determine whether or not those are applicable and acceptable for any TIPS purchase before proceeding. If the Vendor Supplemental Information contains any licenses or certificates, TIPS encourages the TIPS Member Customer to ensure current accuracy at the time of a TIPS purchase.

# ARROW STEEL WINDOW CORP.

133 East Carmans Road  
East Farmingdale, New York 11735

Effective Date: 04/28/2023

## CONTRACTOR GUARANTEE

Re: 85 Jane Street Project  
New York, NY

Arrow Steel Window Corporation hereby guarantees that all materials and workmanship installed under his respective contract to be new and of good quality in every respect and to remain so for a period of one (1) year.

Should any defects develop in the aforesaid work within the stipulated periods due to faults in materials and/or workmanship, the Contractor hereby agrees to make all repairs necessary to correct the defective parts. Such repairs and corrective work shall be done without any cost or expense to the Owner.

ARROW STEEL WINDOW CORP.



Christopher Galati – Vice President

State of New York }  
County of Suffolk }ss:

Sworn to before me this  
26th day of October, 2023

  
Notary Public

LINDA A. DLUGINSKI  
Notary Public, State of New York  
No. 4703556  
Qualified in Suffolk County  
Commission Expires 12/31/2025

**FD25 – 10 Year Limited Warranty**

**DISTRIBUTOR:** Sample Name

**WARRANTY ISSUED TO:** Sample Owner Name - Sample Project Name

FRP Architectural Doors, Inc. products including FD25 FRP doors, aluminum entrances, architectural panels and hardware retention is warranted for a minimum of TEN years from the date of acceptance. These materials were delivered and accepted on **(date)**. Defective materials shall be repaired or replaced at the sole option of FRP Architectural Doors.

FRP exterior face sheets are warranted against corrosion for ten years from date of acceptance. The finish includes a premium modified “Resin-Acrylic” in the fibers providing UV inhibitor protection. All finishes can fade and are not covered under normal wear and aging of the product.

Anodized aluminum finishes are warranted for ten years from date of acceptance.

Other surface finishes are covered by the finish manufacturer’s warranty and FRP Architectural Doors warrants that the finish has been applied in accordance with the finish manufacturer’s application specifications. This warranty is made for and runs concurrently with the same period as the finish manufacturer’s warranty.

The warranties on finish do not cover normal wear and aging of the finish.

No warranty coverage exists where hardware is installed by personnel other than factory trained FRP Architectural Doors technicians.

In addition to the above limited warranty, FRP Architectural Doors, Inc. also provides a limited lifetime (while the door is in its specified application in its original installation) warranty which covers Failure of corner joinery, Core deterioration, Delamination of bubbling of door skin and Corrosion of all-fiberglass products.

FRP Architectural Doors, Inc. will not assume responsibility for improper installation, misuse, abuse, fire, flood, or other acts of God, atmospheric pollutants, building settlement or structural failure of jambs nor does it apply should paint enamel, varnish or other compounds be used. Any modifications other than by FRP Architectural Doors, Inc. trained technician’s voids this warranty. Imperfections or material defects must be reported before installation.

This warranty is validated the **(date)** day of **(month)**, **(year)**.

By: FRPA- PERSON NAME \_\_\_\_\_

FRPA-PERSON TITLE

FRP Architectural Doors, Inc.



## **LIMITED WARRANTY AND REMEDY MATERIAL & WORKMANSHIP**

This is to certify that Kawneer Company, Inc. or its applicable affiliate or subsidiary selling the Product ("Seller") warrants to its Customers and all subsequent purchasers and owners of the project incorporating Seller products (hereinafter "Customer(s)"), subject to every term, condition and limitation stated herein, that the products supplied by Seller on the project identified as:

**Job Name : William B Ward Storage**

**Order(s) #: 3985189, 4005279**

shall be free from material defects, in material and workmanship, for a period of **two (2) years** from the date of substantial completion of the project, provided however, that the limited warranty period shall begin in no event later than six (6) months from the date of shipment by Seller for the start of the warranty period hereunder.

This limited warranty ("Limited Warranty") applies only if Seller's products are installed and maintained according to Seller's recommended practices and installation instructions, and only to defects appearing within **two (2) years** from substantial completion of the project and only if Seller is notified in writing within sixty (60) days after such defects either (i) appears or (ii) should have been discovered after the exercise of reasonable diligence. Failure of the claiming party to notify Seller within such period shall automatically relieve Seller of any and all responsibility and/or liability under this Limited Warranty.

**THE WARRANTIES SET FORTH IN THIS LIMITED WARRANTY AND REMEDY ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES OR OTHER AGREEMENTS EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WHICH ARE HEREBY DISCLAIMED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

In addition to Seller's standard Limited Warranty and Remedy, and applying solely and exclusively to Kawneer doors with welded corner construction, the corner construction joinery of these doors shall be free from material defects in workmanship and material for the normal, useful life of the door.

In addition to Seller's standard Limited Warranty and Remedy, and applying solely and exclusively to Kawneer Flushline doors, the corner construction joinery, core and laminate shall be free from material defects in workmanship and material for the normal, useful life of the door.



This Limited Warranty does not cover, and Seller hereby disclaims all liability for, the installation of Seller's products, any particular application or selection of the product for any particular project or design, any parts, gaskets, glazing materials, components or sealants of other manufacturers used with Seller products, or any lack of performance of Seller products attributable to such items. SELLER PRODUCTS ARE PRODUCED FOR COMMERCIAL APPLICATIONS. THIS LIMITED WARRANTY DOES NOT COVER, AND SELLER HEREBY DISCLAIMS ALL LIABILITY FOR, ANY PRODUCTS USED IN RESIDENTIAL INDIVIDUAL DETACHED SINGLE FAMILY DWELLINGS, ANY PRODUCTS WHICH HAVE BEEN SUBJECT TO ABUSE, ALTERATION, NEGLIGENCE, MISUSE, ABNORMAL USE, ACCIDENT, FIRE, WAR, FLOOD, EARTHQUAKES, ACTS OF GOD, OR TO WHICH PARTS, NOT SUPPLIED BY SELLER HAVE BEEN ADDED, OR TO DEFECTS CAUSED BY DEPRECIATION OR NORMAL WEAR. All decisions regarding the existence of defects in material and workmanship and the occurrence of any of the matters described in the preceding paragraphs or affecting this Limited Warranty shall be made by Seller and shall be final and binding upon all parties.

The sole and exclusive remedy with respect to this Limited Warranty or with respect to any other claim relating to defects or any other condition or use of the products supplied by Seller, however caused, and whether such claim is based upon breach of representation, warranty, condition, contract (fundamental or otherwise), tort (including negligence), strict liability, or any other theory is limited to, at Seller's option, repair or replacement of such products or repayment by Seller of the purchase price paid for it. The remedy with respect to claims made relating to Seller doors excludes the replacement of glass, gaskets, hardware, immediate framing, temporary enclosures or any related labor or installation costs. In no event does Seller's warranty cover the cost of labor or sundry materials required to remove and/or replace any defective product.

The products repaired, replaced, or otherwise restored shall be warranted to the same extent and to the expiration date from the original date of shipment, and this Limited Warranty shall not be deemed to have been extended from the date of such warranty work. At no time does this Limited Warranty confer upon the claiming party or any other party the right to proceed with repair, replacement, or restoration, without written notice and agreement by a duly authorized officer of Seller. Any such work undertaken by the claiming party or any other party shall be for the claiming party's own account and shall result in this Limited Warranty becoming null and void.

SELLER'S AGGREGATE TOTAL CUMULATIVE LIABILITY UNDER THIS LIMITED WARRANTY IS LIMITED TO THE DOLLAR AMOUNT OF THE PURCHASER'S ORIGINAL PAYMENT MADE TO SELLER FOR PRODUCT FURNISHED BY SELLER. IN CONSIDERATION OF THIS LIMITED WARRANTY, SELLER SHALL NOT BE LIABLE FOR SPECIAL, DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS OR GOODWILL, DAMAGES FOR NEGLIGENCE IN THE MANUFACTURE, DESIGN, OR INSTALLATION OF THE PRODUCT, OR OTHER COMMERCIAL LOSS OR INJURY.

This is the only warranty made in the connection with the sale and distribution of the Seller's products. No representative or any other person is authorized to make or makes any warranty, representation, or promise with respect to the Seller products. No terms or conditions other than those stated herein, and no agreement or understanding, oral or written, in any way purporting to modify this warranty shall be binding on Seller unless made in writing and signed by a duly authorized officer of Seller.

Laws and building and safety codes governing the design and use of Kawneer products, such as glazed entrance, window and curtain wall products vary widely. Kawneer does not control the selection of product configurations, operating hardware or glazing materials, and assumes no responsibility therefor.





All notices given under or pursuant to this Limited Warranty shall be in writing and sent by registered mail, postage paid, return receipt requested, to the party to whom such notices is to be given, as follows:

- (a) Kawneer: Kawneer Company, Inc.  
Attn: Warranty Department  
555 Guthridge Court  
Norcross, GA 30092
- (b) Customer: ARROW STEEL WINDOW CORP  
133 EAST CARMANS ROAD  
EAST FARMINGDALE, NY 11735-3837

All such notices as set forth above shall be considered served when received.

Customer's agreement to and acceptance of this warranty shall be indicated by signing and returning a copy of this document to Kawneer.

Kawneer Company, Inc.  
Diana B. Perreiah

President, Arconic Building and Constructions Systems

Date Issued: 4/28/2022

**Accepted By:**

Customer: \_\_\_\_\_

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

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

### Sales Terms and Conditions

These Sales Terms and Conditions shall be the sole terms and conditions governing the sale of goods by Kawneer Company, Inc. or any of its subsidiaries and affiliates ("Seller") selling Products to a purchaser ("Customer"). The identity of Customer, the identity of the goods being purchased (the "Products"), the quantity of Products being purchased, the destination for delivery of the Products, and other material information concerning Customer's order shall be set forth in Customer's purchase order (the "Purchase Order") and provided to Seller. These Terms and Conditions are hereby incorporated into and made a part of each such Purchase Order.

All orders are subject to approval and acceptance by a duly authorized representative of Seller. Upon the earlier of Seller's written acceptance of the Purchase Order or acceptance by Customer of Products furnished by Seller in response to such Purchase Order, the Purchase Order, the written acceptance, if any, and these Terms and Conditions shall be the complete and final agreement (the "Agreement") between Seller and Customer with respect to the purchase and sale of Products identified in the Purchase Order, provided, however, that any pre-printed or form language appearing in Customer's Purchase Order shall not become a part of the Agreement.

**SELLER'S ACCEPTANCE OF ANY CUSTOMER PURCHASE ORDER IS EXPRESSLY MADE CONDITIONAL UPON CUSTOMER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS, AND SELLER OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS, WHETHER CONTAINED IN CUSTOMER'S PURCHASE ORDER OR OTHERWISE. SELLER WILL NOT BE DEEMED TO HAVE WAIVED THESE TERMS AND CONDITIONS OF SALE IF SELLER FAILS TO OBJECT TO PROVISIONS CONTAINED IN CUSTOMER'S PURCHASE ORDER, OTHER FORMS OR OTHERWISE.** It is Customer's obligation to sign this sales agreement but Customer's acceptance of the product will constitute Agreement to these terms whether Customer has sign sales Agreement or not.

#### **DETERMINATION OF PRICE:**

Prices given herein are list prices, unless otherwise specified, and are subject to discounts prevailing at the time the order is received. Prices shown do not include Provincial Sales Tax or Goods & Services Tax or any other tax or government charge upon the production, sale or shipment of material which is effective within the life of the sales contract, all of which will be paid by the Customer. All prices are subject to change without notice, and are not guaranteed against change. Inventory adjustments will not be made. Stenographic and clerical errors made by Seller on an acknowledgement or invoice shall be subject to correction.

**NOTE:** In the event that a discrepancy arises between the index and the body of the price catalog, the information contained in the body of the catalog will take precedence.

#### **PRICE PROTECTION:**

In the event of a price decrease, unshipped orders, with the exception of special sales contracts covered by a lot or job estimates, will be invoiced at the new and lower prices. In the event of a price increase, orders on hand will be invoiced at the prices in effect when the orders were received, provided, however, those shipments are made at Seller's convenience thereafter. Seller quotations on specific jobs made in writing by Seller are valid (or firm) for thirty (30) days.



**ACCEPTANCE OF ORDERS:**

The acceptance of orders constitutes a complete and binding contract which cannot be modified or canceled without written consent of Seller, except that all orders are accepted subject to delays caused by strikes, fires or any other causes (including those set out in the section "Force Majeure" below) beyond the control of Seller. All orders are accepted subject to governmental regulation on material usage, whenever applicable.

**MINIMUM ORDER SIZE:**

Orders of less than \$100.00 list price will be billed at list price with no discount. All painted orders will be invoiced at a minimum of \$500.00 net per paint color.

**PAYMENT:**

Seller stated payment terms are Net 30 day from date of invoice, unless otherwise approved in writing by a duly authorized representative of Seller. Early payment discounts are available. Please contact the Seller Credit Department for additional information. Receipt of payment by the purchaser is not a condition of payment to Seller. Purchaser's unsatisfactory credit status shall be cause for cessation of deliveries. It is the Customer's responsibility to ensure full and effective payment for goods is received by Seller in accordance with its instructions. Seller accepts no responsibility for improperly directed payments, whether due to fraud, deception, or any other cause or by electronic or any other means.

**CREDIT CARD PAYMENT (U.S. Customers Only):**

Seller will accept credit card payments. Credit Card invoices are paid immediately upon shipment. No early payment discounts are available with credit card payments. Please contact the Seller Credit Department for additional information.

**FREIGHT CHARGES AND RISK OF LOSS:**

Unless stated otherwise, all items are shipped F.O.B. Seller manufacturing facility or service center.

**CLAIMS:**

No claims due to errors, shortages or rejection because of defects or defective materials ascertainable on visual inspection will be considered unless reported to Seller within ten (10) days after receipt of shipment. Claims for damages resulting from delays or use of defective materials will not be honored.

**DELIVERY:**

Orders should include complete shipping instructions. Seller reserves the right to ship as it deems advisable unless specific instructions are given. Seller will use reasonable efforts to meet delivery dates but such dates are deemed approximate and Seller shall be allowed a reasonable variance from all such dates. In no event is Seller subject to any charges, penalties, liquidated damages, back charges, penalties or liability of any kind for delayed delivery. Seller shall not be liable for damages caused by delays in delivery by carriers. Customer will file claims with carrier for all shortages, damages, or delays delivered by common carriers.

**FORCE MAJEURE:**

Seller shall not be liable for delays or inability to perform due to strikes, labor disputes, lockouts, fire, flood, war, declared or undeclared, insurrections, riots, outbreaks of infectious disease, epidemics, pandemics, acts of God, embargoes by foreign nations, inability to obtain or unusual delay in obtaining materials, shortages of power needed to operate Seller facilities, governmental regulations or priorities, or any other cause beyond the control of Seller. In case of any delays in receipt or shortages of materials or shortages of power needed to operate Seller facilities, Seller reserves the right in its sole discretion to determine the assignment of materials, and the order of priority in filling orders. Seller also reserves the right in its sole discretion to cancel order by written notice in the event Seller believes that by reason of the foregoing it will



not be able to meet the scheduled completion date.

**INDEMNIFICATION:**

Customer is solely responsible for proper selection and installation of Seller products as well as the incorporation of Seller products into other products (if this is applicable). Customer agrees that it will use Seller products only for their intended uses and according to specifications and limitations established by Seller from time to time. Customer acknowledges and agrees that Seller Products are to be used for commercial applications and not intended for individual single family homes. Customer shall indemnify, defend and hold Seller harmless from and against any and all damages arising out of or relating to use in individual single family residences, and improper product selection, application, use, misuse, neglect, abuse of products or incorporation of products or transportation of products.

**NO LIABILITY FOR LOCAL LAWS OR CODES:**

Laws and building and safety codes governing the design and use of glazed entrance, window and curtain wall products vary widely. Seller does not control the selection of product configurations, operating hardware or glazing materials, and assumes no responsibility therefore.

It is the responsibility of the Customer to determine at the time of order entry or revision, whether Seller material and products meet any federal, state, provincial and /or local law interpretation and regulations, including those relating to building construction, safety and to the Americans with Disabilities Act of 1990 and any other similar federal, state, provincial or local statutes.

**ORDER CANCELLATION AND CHANGE CHARGES:**

In the event a Customer changes an order or cancels or partially cancels an order that has already been accepted by Seller, Seller may assess a charge to the Customer for costs incurred in performance of that portion of the order that has been changed or cancelled up to and until the time Seller receives notice of the change or cancellation. Customer orders for special materials (those not described in the effective price book), or for products fabricated specifically to Customer's dimensions or other specifications, or where special materials or services are procured by Seller for use on Customer's order, or where drafting or take-off services have been performed, will be subject to charges for cancellation or change for those costs incurred in performance of that portion of the order that has been cancelled or changed up to and until the time Seller receives notice of the change or cancellation.

**SECURED CREDIT TERMS:**

No cash discount is allowed on merchandise delivered by truck, C.O.D. (including Parcel Post and Rail Express), and sight draft bill of lading on a net basis.

**BALANCE DUE MATERIALS:**

Any portion of an order not included in an original shipment because of shortage of stock or other cause beyond Seller's control will be invoiced at the same price and on the same terms as if included in the original shipment. If the balance due shipment weighs 100 pounds or more, the transportation charge will be based on the combined weight of the original and balance due shipments. If the balance due shipment weighs less than 100 pounds, Seller will prepay and absorb the freight on that portion of the order.

**RETURNED MATERIAL:**

Seller will not accept any material returned for credit unless such return has been previously authorized in writing by Seller. Returns must be requested by Customer within thirty (30) days of receipt of material. Customer must return material within thirty (30) days of receipt of written authorization from Seller. Material returned under such an authorization will be subject to regular inspection by Seller. If found saleable without requiring reconditioning or further work, credit will be issued in the amount invoiced less a handling charge of 15% returned material charge or \$100.00 net, whichever is greater. No credit will be issued for goods produced to order, not meeting inspection requirements or for goods received more than thirty (30) days after authorization to return. All shipping charges for returns are the responsibility of the Customer.



**INSTALLATION:**

Seller hereby disclaims all liability for, and is not responsible or liable for, any damages or costs that may result from improper installation of its products. It is the responsibility of the Customer purchasing a Seller product to ensure that the Seller product is installed properly and in accordance with Seller's printed instructions. This responsibility is retained by Customer even though the product may be resold for installation by a third party. Seller will not be liable for damages and costs that result from improper installation of Seller products, regardless of who actually performs the installation.

**RESIDENTIAL USE:**

Seller hereby disclaims all liability for, and is not responsible or liable for, any damages or costs that may result herein from use of its products in individual single family dwellings.

**INTELLECTUAL PROPERTY/CONFIDENTIALITY:**

Intellectual/industrial property rights inherent in the documents provided, manufacturing processes, methods, inventions, tooling, as well as know how acquired prior to or during the course of performance hereunder shall remain the exclusive property of Seller. These rights may only be transferred to Customer under a written agreement is signed by both parties and which includes financial consideration. Unless otherwise agreed to in a non-disclosure agreement executed by the parties, (i) Seller will not be bound by any obligations of confidentiality or non-disclosure and (ii) all information disclosed by Seller to Customer is confidential information and Customer agrees to protect such information and not to disclose it or use it for a period of two years following Seller's last shipment of goods or provision of services to Customer. Seller does not grant to Customer, and nothing contained herein will obligate or be construed to obligate Seller to grant to Customer, any license under any patents, trademarks, copyrights, trade secrets or other intellectual property owned by Seller. Further, as a condition of sale of Products, without Seller's express, written consent, Customer shall not: (a) use Seller's trademarks in any attempt to resell Products; and/or (b) compare, in a public forum, document, or website, any Products to any other goods made, used, offered for sale, and/or sold by Seller. Except for data that Seller has agreed to provide as a deliverable, or data customarily provided by Seller for quality control purposes (which Customer must keep confidential and use solely for such purposes), Seller shall not be required to deliver any data concerning its manufacturing processes.

**ENTIRE AGREEMENT:**

The Limited Warranty and Remedy and Other Terms and Conditions set forth the entire agreement between the Customer and Seller relating to the sale of Seller's Products to Customer. Any additional or different terms in the Customer's forms are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given.

**GOVERNING LAW AND VENUE:**

The sale of Seller products hereunder with shipping addresses located in the United States shall be governed by the laws of the State of Delaware, excluding its laws related to choice or conflicts of law. The sale of Seller products hereunder with shipping addresses located in Canada shall be governed by the laws of Ontario and the federal laws of Canada applicable therein. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed and does not apply to the sale of Seller products. Any and all disputes between the parties that may arise pursuant to this order will be heard and determined before an appropriate arbitrator, federal, or state court located in Wilmington, Delaware. The Customer hereto acknowledges that such court has the jurisdiction to interpret and enforce the provisions herein and/or an arbitrator's judgment, and the Customer waives any and all objections that they may have as to personal jurisdiction or venue in any of the above courts.

**ATTORNEY'S FEES:**

If any action or proceeding is commenced to enforce or interpret any of the provisions of this



agreement, and Seller is the prevailing party in any such action or proceeding, then Seller shall be entitled to recover its reasonable attorneys' fees, expert witness fees, costs of suit and expenses, in addition to any other relief to which Seller may be entitled. As used herein, Seller is a "prevailing party" when, including but without limitation, a party dismisses an action against Seller for recovery hereunder in exchange for payment of sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action brought by such party.

**MISCELLANEOUS:**

(a) Headings used herein are for convenience only and shall not be used for interpretive purpose. (b) A party's failure to act with respect to another party's breach of any provision contained herein does not constitute a waiver. (c) If any provision herein is held to be invalid or unenforceable, such provision shall be narrowly construed, if possible, or otherwise deemed ineffective and the remaining provisions shall not be affected. (d) These terms and conditions will survive the fulfillment of any purchase order.

**TOOLS AND DIES:**

Charges made for dies and tools do not convey to the Customer title or the right to remove them from the Seller facility.

**SAMPLES:**

Standard samples are available at cost (net). Standard samples are shipped from the Seller Marketing Communications Department in Norcross, Georgia. Custom samples are not available through the Marketing Communications Department and must be ordered on a standard order form.

**SPECIAL LENGTH CHARGES:**

For special length painted material requirements, consult with a Seller Customer Service Coordinator for pricing.

For special length anodized material requirements, the following charges apply:

- |                             |  |
|-----------------------------|--|
| 1-25 stock lengths:         | Use part number 036426,<br>\$200.00 net set up charge per shape. |
| More than 25 stock lengths: | No setup charge.   |

**CUT-TO-SIZE ORDERS:**

Orders for materials cut-to-size will be billed at the Customer's CMP price per foot. In addition, a \$35 net price per cut piece charge will be applied to the invoice under part number 036425 and cut offs will not be shipped.

**SHOP DRAWINGS:**

Seller products may be detailed by Seller to confirm specifications. In such cases, drawings will be submitted to the Customer for approval. Seller will fabricate in accordance with dimensions and specifications shown on the Customer approved drawings but will take no responsibility for failure of the Customer to check drawings against job site conditions or for any other purpose. Special entrances cannot be scheduled for production until the approved detail, with the Customer's signature, has been received, and all special hardware is in Seller's possession. Changes made to any drawing after approval of details by Customer may involve additional charges on the order.

**DOUBLE BOX CHARGE:**

Seller offers a double box option for additional protection of your material during shipment. Use part number 036598 at \$20.00 list. The charge will be applied per box.



**ILLUSTRATIONS:**

The illustrations within catalogs are for part identification only, and do not indicate size or proportions by comparison.

**PUBLICITY:**

Customer agrees to permit Seller to use Customer's name and/or mark in Seller's publicity, advertising, marketing, social-media, or product-related literature ( Publicity ). The form and placement of Customer's name and/or mark on Seller's Publicity will be subject to Customer's prior review and approval, such approval not to be unreasonably withheld, conditioned or delayed.



## LIMITED WARRANTY AND REMEDY ANODIZED FINISHES

This is to certify that Kawneer Company, Inc. (hereinafter "Kawneer") hereby warrants to its customers and all subsequent purchasers and owners of the project incorporating Kawneer products (hereinafter "Customer(s)"), subject to every term, condition and limitation stated herein, that the anodized finishes applied to the aluminum material (hereinafter "Metal") on the project identified as:

**Job Name:** *William B Ward Storage*

**Order(s) #:** 3985189, 4005279

for a period of two (2) years for Class II finishes and (5) years for Class I finishes (the "finished Metal") from the date of substantial completion of the project, provided however, that the Limited Warranty shall begin in no event later than six (6) months from the date of shipment by Kawneer for the start of the warranty period hereunder.

THIS LIMITED WARRANTY SHALL APPLY TO THE FOLLOWING CONDITIONS ONLY:

- The finished Metal will not change color more than five (5) DEcmc as determined per AAMA 611.
- The finished Metal will not crack, blister, check or peel.

THIS LIMITED WARRANTY WILL NOT APPLY TO OR COVER, AND KAWNEER HEREBY DISCLAIMS ALL LIABILITY FOR ANY OF THE FOLLOWING:

- defects caused by depreciation or normal wear or other occurrences beyond Kawneer's control;
- damage due to failure to properly protect the installed finished Metal during the construction process;
- damage to the finish occasioned by moisture or other contamination detrimental to the finish because of improper storage of the finished Metal prior to installation;
- water damage due to condensation caused by improper repackaging of the finished Metal prior to installation;
- damage due to finished Metal caused by exposure to caustic or acidic materials, or harmful fumes or other destructive and/or foreign materials;
- any particular application or selection of the Metal for any particular project or design;
- damage due to improper maintenance e.g. the use of improper chemical cleaning agents, or applications;
- corrosion of the Metal due to aggressive atmospheres including exposure to salt spray and/or salt mist;
- any application of the anodized finish on any Metal that is also hardware; and
- any product which has been subject to abuse, alterations, modification, neglect, misuse, abnormal use, accident, fire, war, flood, falling objects, external forces, earthquakes, acts of God, or to which parts not supplied by Kawneer have been added.

A systematic maintenance program must be instituted by the purchaser or user to prevent the build-up of deposits on the anodized surface such as dirt and salt. The surface must be cleaned at least annually in accordance with AAMA 609 & 610 so as to prevent the accumulation of these harmful deposits. More frequent cleaning may be reasonably required in some geographical environments such as heavy industrialized or coastal areas. In coastal environments where metal





is exposed to salt spray or salt fog or in heavy industrial environments, the metal surface must be cleaned at least once quarterly in accordance with AAMA 609 & 610 to prevent the accumulation of harmful deposits.

**A FAILURE TO INSTITUTE AND REASONABLY EVIDENCE A SYSTEMATIC MAINTENANCE PROGRAM AS DESCRIBED ABOVE WILL VOID THIS WARRANTY.**

All decisions regarding the existence of defects in material and workmanship and the occurrence of any of the matters described in the preceding paragraphs or affecting this Limited Warranty shall be made by Kawneer and shall be final and binding upon the parties.

The sole and exclusive remedy with respect to this Limited Warranty or with respect to any other claim relating to defects or any other condition or use of the products supplied by Kawneer, however caused, and whether such claim is based upon warranty, contract, negligence, strict liability or any other theory, is limited to, at Kawneer's sole discretion, replacement or refinishing of the defective Metal or repayment by Kawneer of the purchase price paid to it. Refinishing of the defective Metal shall be performed by using standard finishing practices and materials as selected by Kawneer. Kawneer reserves the right to approve any contract for refinishing of defective Metal. The warranty on any refinished and/or replacement coated Metal shall continue for the remainder of the original warranty period. At no time does this warranty confer upon the claiming party or any other party the right to proceed with repair, replacement or restoration, without written notice and agreement by a duly authorized officer of Kawneer. Any such work undertaken by the claiming party or any other party shall be for the claiming party's own account and shall result in this warranty becoming null and void.

**IN NO EVENT SHALL KAWNEER BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS OR GOOD WILL, OR OTHER COMMERCIAL LOSS OR INJURY.**

Claims under this Limited Warranty must be made to Kawneer in writing within sixty (60) days after discovery of the defective finished Metal. Failure of the claiming party to notify Kawneer within such period shall automatically relieve Kawneer of any and all responsibility and/or liability. Kawneer must be given a reasonable opportunity to inspect the finished Metal claimed to be defective. In the event of a claim under the warranty, Customer shall furnish proof of the date of substantial completion and shall demonstrate that the failure of the product was due to a breach of the warranty stated herein.

This Limited Warranty will apply only to Metal which is supplied by Kawneer and used within North America (United States, including Hawaii, and Canada) unless Kawneer agrees otherwise in writing.

No terms or conditions other than those stated herein, and no agreement or understanding, oral or written, in any way purporting to modify this Limited Warranty shall be binding on Kawneer unless made in writing and signed by a duly authorized officer of Kawneer.



All notices given under or pursuant to this Limited Warranty shall be in writing and sent by registered mail, postage paid, return receipt requested, to the party to whom such notices are to be given, as follows:

- (a) Kawneer: Kawneer Company, Inc.  
Attn: Diana Perreiah  
555 Guthridge Court  
Norcross, GA 30092
- (b) Customer: ARROW STEEL WINDOW CORP  
133 EAST CARMANS ROAD  
EAST FARMINGDALE, NY 11735-3837

All such notices as set forth above shall be considered served when received.

Customer's agreement to and acceptance of this warranty shall be indicated by signing and returning a copy of this document to Kawneer.

Kawneer Company, Inc.  
Diana B. Perreiah

President, Arconic Building and Construction Systems  
Date Issued: 4/28/2022

**Accepted By:**

Customer: \_\_\_\_\_  
 By: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date Signed: \_\_\_\_\_

## **OLDCASTLE BUILDINGENVELOPE® STANDARD TEN-YEAR LIMITED GLASS WARRANTY**

Oldcastle BuildingEnvelope®'s ("Oldcastle") Ten-year Limited Warranty ("Limited Warranty")<sup>1</sup> applies to the following products set forth below for a period of ten (10) years from the date of manufacture:

- 1. INSULATING GLASS (DUAL SEAL UNIT) LIMITED WARRANTY.** The Insulating Glass (Dual Seal Unit) shall be free of defective materials or workmanship, which result in visible fogging or moisture residue formation on internal glass surfaces due to failure of the insulating glass seal under normal conditions.
- 2. LAMINATED GLASS LIMITED WARRANTY.** The standard two-ply Laminated Glass shall be free of defective materials or workmanship, which result in delamination under normal conditions, excluding glass-polycarbonate laminates.
- 3. CERAMIC FRIT SPANDREL, FRIT SILK-SCREENED, AND DIGITALLY PRINTED INK GLASS LIMITED WARRANTY.** Ceramic Frit Spandrel, Frit Silk-Screened, and Digitally Printed Ink Glass shall be free of defective materials or workmanship, which result in visible peeling or cracking of the ceramic materials under normal conditions.
- 4. HIGH-PERFORMANCE COATINGS LIMITED WARRANTY.** Oldcastle warrants to facilitate a resolution of valid claims for defective materials or workmanship against the glass manufacturer who applied the high-performance coating, which result in peeling or cracking of the high-performance coating when glazed as a component of a dual seal insulating glass unit with the coating oriented to the interior airspace under normal conditions.
- 5. HEAT-TREATED GLASS LIMITED WARRANTY.** Heat-Treated Glass (tempered and heat-strengthened) shall meet the requirements of ASTM C1048 under normal conditions. Heat-soaked tempered glass is covered under a separate express limited warranty and is excluded from this Limited Warranty. A separate Heat-Soaked Tempered Glass Warranty is offered when heat-soak testing is requested prior to the fabrication of the glass.

<sup>1</sup> The Additional Terms and Conditions contained on the following pages are hereby expressly incorporated into Oldcastle's Limited Warranty.

**ADDITIONAL TERMS AND CONDITIONS INCORPORATED INTO OLDCASTLE BUILDINGENVELOPE® , INC.'S STANDARD TEN-YEAR LIMITED GLASS WARRANTY**

If, within ten (10) years from the date of manufacture, any glass provided to Purchaser breaches the Limited Warranty relating to the products listed above, Oldcastle, shall either (a) furnish the purchaser with a replacement product, F.O.B. the Oldcastle plant supplying the replacement, or (b) refund the original purchase price which the purchaser paid for the failed product. If Oldcastle elects to supply a replacement, the Limited Warranties shall extend only for the balance of the original Limited Warranty period of the failed product. Oldcastle shall have the sole right to determine whether such glass shall be replaced.

**SUBMITTING A CLAIM**

Every claim for breach of this Limited Warranty shall be void unless: (1) it is provided to Oldcastle in writing and dated by post-mark or electronically within thirty (30) business days of the date the defect was discovered or should have reasonably been discovered, (2) it includes copies of the applicable invoices or sales orders, (3) Oldcastle is given a reasonable opportunity to inspect the alleged defective glass and its installation at the site, and (4) it is received by Oldcastle within ten (10) years from the date of manufacture. All claims shall be directed to the operating location which sold (invoiced) the product suspected of being defective.

**EXCLUSIONS**

Oldcastle expressly disclaims responsibility for, and Oldcastle's Limited Warranty does not cover, the following: (i) any damage to any product caused by, or results from, improper installation, including any installation not performed in a good and workmanlike manner in accordance with industry standards and the Glass Association of North America (GANA) Glazing Manual, NGA/GANA Proper Procedures for Cleaning Architectural Glass Products bulletin, and other NGA/GANA documents, applicable shop drawings, ordinances and safety codes; (ii) improper cleaning and maintenance; (iii) storage in other than a good and workmanlike manner; (iv) abuse; (v) damage or breakage caused by persons other than employees or agents of Oldcastle while being handled, installed, shipped, glazed or used; (vi) damage or breaks, including scratches, occurring during construction or cleaning; (vii) damage or breakage caused by improper building design or construction; thermal breakage; (viii) building or foundation movement; (ix) use upon the product of any cleansing or treating agents; (x) any metal, plastic, or other scraping tools; (xi) atmospheric pollutants or contaminants, or runoff; (xii) leachate from building components; (xiii) use of the product with incompatible glazing or other materials; (xiv) or use of the product for purposes not considered suitable therefore by the glass industry or, in its sole discretion, by Oldcastle. No warranty is provided in respect of any damage to or failure caused by any of the foregoing.

Oldcastle provides no warranty for any product shipped outside the United States and Canada. **THE WARRANTIES IN THIS LIMITED WARRANTY ARE THE ONLY WARRANTIES APPLICABLE TO THE PRODUCTS IDENTIFIED ABOVE. THERE ARE NO OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE PRODUCTS SUPPLIED BY OLDCASTLE, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED, AND OLDCASTLE SHALL HAVE NO LIABILITY THEREFORE, NOTWITHSTANDING (1) OLDCASTLE'S ACTUAL KNOWLEDGE OF ANY INTENDED USE OF THE PRODUCTS, OR (2) ANY ADVICE OR REPRESENTATION THAT MAY HAVE BEEN RENDERED BY OLDCASTLE CONCERNING THE DESIGN, MANUFACTURE, FABRICATION, SALE USE, INSTALLATION, OR PROVISION OF THE PRODUCTS.**

IN NO EVENT SHALL OLDCASTLE BE RESPONSIBLE FOR ANY COSTS, EXPENSES, OR DAMAGES RELATED TO REPLACING NONCONFORMING OR DEFECTIVE PRODUCTS (INCLUDING, BUT NOT LIMITED TO, LABOR, MATERIAL, OTHER EXPENSES OR DAMAGES INCLUDING CONSEQUENTIAL, SPECIAL, INDIRECT, OR OTHER DAMAGES OR COSTS), OTHER THAN AS SPECIFIED IN THIS PARAGRAPH. OLDCASTLE RESERVES THE RIGHT TO INSPECT ANY PRODUCT THAT IS ALLEGED TO BE DEFECTIVE.

This Limited Warranty is extended to the purchaser of the product only and any claim hereunder must be made solely by the purchaser. This Limited Warranty is not transferable without Oldcastle's prior written consent, which may be withheld entirely in its discretion, and any attempted assignment without such prior written consent shall void this Limited Warranty.



**LIMITED WARRANTY**

FURNISHED TO: ARROW STEEL WINDOW CORP  
133 E CARMANS RD  
E FARMINGDALE, NY 11735

PROJECT: HUDSON YARDS TOWER A

SALES ORDER: 083069-00

SAFTI *FIRST* warrants that their products shall be free from defective material and comply with SAFTI *FIRST*'s published Quality Specifications and Inspection Standards for a period of five (5) years from the date of delivery provided that said products have been installed and maintained in accordance with SAFTI *FIRST*'s installation instructions and published maintenance recommendations. This warranty is limited to defects appearing in the door, window or wall framing and glazing components. This warranty is limited to the glass and framing manufacturing only and does not cover "hardware supplied by others". Should there be a defect found in operating difficulty with any hardware component, Owner should contact the respective manufacturer or consult the warranty agreement that covers the hardware component in question.

This warranty is limited to the repair or replacement of defective material or entire product and shall be determined at the discretion of the manufacturer as to what action to take.

SAFTI *FIRST* extends the SuperLite II-XL manufacturer's warranty to the immediate buyer. The conditions of this warranty for the SuperLite II-XL glazing material are as follows:

The supplier warrants its immediate buyers for a period of five (5) years from the date of delivery that under normal conditions, the free vision through the SuperLite II-XL glass will not be adversely affected.

The use of tempered glass as well as the clear, fire resistive intumescent interlayer can lead to certain optical irregularities, especially near the glass edges. These inherent irregularities do not affect the free vision through the glass. Normal conditions imply in particular that the clear, fire resistive intumescent interlayer is not allowed to reach temperatures below 32 degrees Fahrenheit or over 140 degrees Fahrenheit (0 – 60 degrees Celsius).

**The warranty is subject to the following provisions:**

- A liability under this warranty is limited to free repair or replacement (at the manufacturer's discretion) of defective glass and/or frames and shall not extend to any other damages in connection with defective glass. Installation of the replacement glass into GPX framing is not covered under this warranty.
- The warranty shall not apply to units which have not been handled in accordance with normal conditions of use, or units which have been subsequently processed or modified in any way, or units which have been subject to any damage affecting the bond of the SuperLite II-XL units. Normal conditions of use include but are not limited to temperatures between 32 degrees Fahrenheit and 140 degrees Fahrenheit.
- Manufacturer's warranties on component parts of materials may differ from the terms specified herein and will supersede SAFTI *FIRST*'s standard warranty.
- The manufacturer's liability will also not apply in cases where defects are not reported within 30 days after they have become recognizable by the initial buyer or by the users of the building into which SuperLite II-XL has been installed. Liability will therefore expire at the latest 30 days after the expiration of the warranty, also if the defect has not been recognizable before expiration of the 5-year warranty period. Any glass replaced or repaired under this warranty is limited by the original warranty period and shall not be extended beyond the original five years.
- Furthermore, the conditions for quality complaints according to the manufacturer's general conditions of sale for export shall apply.
- If SuperLite II-XL is exported to a country other than where the initial delivery has been made, the warranty will only be valid if the manufacturer has accepted this exportation.
- Building and safety codes vary widely throughout the world. SAFTI *FIRST* does not control nor will it be responsible for the selection of product supplied by others, configurations, or the glazing materials used in the manufacture of its door, window or wall systems. SAFTI *FIRST* makes no other warranties or representation, either expressed or implied, concerning product fitness for a particular purpose. SAFTI *FIRST* will fabricate to dimensions shown on approved drawings but will not take responsibility for failure of submitting party(s) shop drawing dimensions against job site conditions. In no event will SAFTI *FIRST* be liable for direct, indirect, special or consequential damages including but not limited to loss of profit or use.
- SAFTI *FIRST* reserves the right to inspect or have returned all products alleged to be defective excluding shipping and handling costs.
- SAFTI *FIRST* makes no other warranty, expressed or implied, regarding its products.

  
Karen Lim, Sales Administrator

AUGUST 28, 2019  
Date



CARE INFORMATION

WWW.SAFTI.COM

888.653.3333

## CARE INFORMATION

### DO

- Start cleaning at the top of the building working down.
- When cleaning, make certain to use a non-abrasive, commercial window cleaning solution.
- Soak the glass surface with a clean water and soap solution to loosen dirt and debris.
- Dry all cleaning solution from the window.
- Clean one window first to see if the cleaning method caused any damage.
- Prevent conditions that can damage the glass.
- Avoid cleaning tinted and coated glass surfaces in direct sunlight.

### DO NOT

- Use any type of scrapers for cleaning glass.
- Allow dirt and residue to remain on the glass for an extended time.
- Leave water or cleaning residue on glass or adjacent materials.
- Begin cleaning until all dirt and debris has been removed with a clean water and soap solution.
- Use abrasive cleaning solutions or materials; only use a mild, non-abrasive window cleaning solution.
- Allow metal parts of cleaning equipment to come in contact with the glass.
- Trap abrasive particles between the cleaning materials and the glass.
- Allow splashed materials to dry on glass.
- Allow conditions that can damage the glass.
- Allow other materials that can come in contact with the glass.
- Begin cleaning the glass without making sure that a coated surface is not exposed.

**Failure to comply with the SAFTI FIRST recommended care and cleaning procedures may result in a void warranty.**  
**For questions or more information, please call 888.653.3333**

## Limited Warranties

Arrow Steel Window Corp  
133 East Carmans Rd  
Farmingdale, NY 11735

Job Name: Smiths Lane Commack UFSD  
Job No.: 150344  
Customer PO: 5140  
Warranty Date: 8/24/2023

Special-Lite, Inc. warrants the Special-Lite® Doors (certain product exclusions apply\*), Frames, Panels, Hardware, and Toilet Partitions that it manufactures to be free of defective materials and faulty workmanship, and as conforming to our customers' written purchase order guidance, for a period of ten years from the date of shipment. This warranty covers repair or replacement of product at our discretion and payment of approved labor charges as necessary to effect such repairs or replacement.

Claims relating to the conformance of doors, frames, panels and toilet partitions, to purchase order, must be submitted in writing to Special-Lite, Inc. within 30 days after receipt by buyer.

**In addition to the above limited warranty, Special-Lite also provides a limited lifetime (while the door is in its specified application in its original installation) warranty covering the following:**

- A. Failure of corner joinery.
- B. Core deterioration.
- C. Delamination or bubbling of door skin.
- D. Corrosion.

**Warp and Telegraphing:** Special-Lite defines warp as any distortion in the door itself, and does not refer to the door in relation to the frame or jamb in which it is installed. Warp is not considered a defect unless it exceeds ¼" in the plane of the door itself. Placing a straightedge on the concave face and determining the maximum distance from the straightedge to the door face will be the method by which warp shall be measured.

Special-Lite doors will not be deemed defective due to "telegraphing" or stile, rail and core show-through unless the faces of the doors vary from a true plane in excess of 1/100" in any three inch span.

**Factory Installed Hardware:** Special-Lite also warrants for a period of 10 years that:

- A. Hardware is installed in accordance with the hardware manufacturer's specifications and instructions
- B. Hardware is securely mounted and, in normal usage, will not separate from the door

**Field Installed Hardware:** Special-Lite makes no warranties of any kind as to hardware which is installed in the field by non-Special-Lite personnel.

**Glazing:** Special-Lite does not manufacture the glazing material integrated into its products. All glass, including tempered, insulated, laminated and specialty glass is covered by the manufacturer's glass warranty.

**Field Alterations:** AF-100 Doors with standard (mortised) door bottoms may be trimmed in the field at the bottom of the door up to a maximum of 1.125 inch. Vision lites or louvers to be added to doors in the field must be reviewed and approved in writing by Special-Lite Engineering to preserve warranty coverage on the door. Any unapproved field alterations will void this warranty.

**Finishes:** Special-Lite makes the following finish warranties:

- A. In the case of SpecLite 3® FRP face sheets and anodized aluminum finishes, Special-Lite warrants the finish for 10 years from the date of shipment.
- B. Other surface finishes are covered by the finish manufacturer's warranty and Special-Lite warrants that the finish has been applied in accordance with the finish manufacturer's application specifications. This warranty is made for and runs concurrently with the same period as the finish manufacturer's warranty.
- C. The warranties on finish in this section do not cover normal wear and aging of the finish.

**The following will void this limited warranty:**

- 1. Failure to follow installation instructions;
- 2. Field alterations except as outlined above;
- 3. The application of hardware other than the hardware which the product was manufactured to receive; or
- 4. Abuse, mistreatment or improper usage of the product.

**This limited warranty is in lieu of and replaces all other express or implied warranties, including but not limited to an implied warranty of fitness for a particular purpose and an implied warranty of merchantability.**

Upon receipt of a warranty claim, Special-Lite will determine whether the warranty applies and if so, Special-Lite will determine, in its sole discretion, whether repairs or replacements will be done at the factory or in the field. Special-Lite's liability under this limited warranty is in all events limited to repair or replacement of the defective product and in no event shall Special-Lite be liable for lost profits, or consequential, incidental or punitive damages of any sort, whether based on tort, breach of contract, or breach of warranty.

\*The Hollow Metal Replacement FRP Door (HMR-FRP) and Interior Architectural Products each carry a separate warranty. HMR-FRP warranty information can be found at: <https://special-lite.com/downloads/hollow-metal-replacement-frp-door-hmr-frp-warranty/>

Limited Lifetime Warranty against corrosion does not apply to fasteners, hardware, or internal components of doors.