

CONTRACT NO. 11298

**MASTER PURCHASE AGREEMENT FOR
SUPPLY AND DELIVERY OF APPLIANCES**

BETWEEN

**GE APPLIANCES, A DIVISION OF THE GENERAL ELECTRIC
COMPANY**

AND

CHICAGO HOUSING AUTHORITY

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AGREEMENT

THIS MASTER PURCHASE AGREEMENT FOR THE SUPPLY AND DELIVERY OF APPLIANCES (hereinafter, "Agreement") is entered into this as of the 1st day of July 2013 between the **CHICAGO HOUSING AUTHORITY** (the "CHA"), a municipal corporation organized under the Illinois Housing Authority Act, 310 ILCS 10/1 et seq. with offices at 60 E. Van Buren St., Chicago, Illinois 60605 and **GE APPLIANCES, A DIVISION OF THE GENERAL ELECTRIC COMPANY** (the "Seller"), a New York corporation authorized to do business in Illinois with offices at 307 N. Hurstbourne Parkway, Louisville, Kentucky 40222.

RECITALS

WHEREAS, the CHA is engaged in the development and operation of safe, decent and sanitary housing throughout the City of Chicago for low income families in accordance with the United States Housing Act of 1937, 42 U.S.C. §1437 et seq.; regulations promulgated by the United States Department of Housing and Urban Development ("HUD"), and the Illinois Housing Authorities Act, 310 ILCS 10/1 et seq., as amended, and other applicable laws, regulations and ordinances; and

WHEREAS, the CHA released Request for Proposals No. 12-00990 ("RFP") on or about November 16, 2012 to solicit a vendor that is able to supply and deliver kitchen appliances and air conditioners to various CHA properties throughout the City of Chicago ("Properties") as ordered by the CHA from time to time on an as-needed basis; and

WHEREAS, the Seller submitted its Proposal on or about January 2, 2013 to CHA indicating it is ready, willing and able to supply and deliver appliances to CHA as set forth in the RFP; and

WHEREAS, the Seller represents that it is a national manufacturer of appliances and is able to supply and deliver various kitchen appliances and air conditioners ("Appliances") that may be ordered by the CHA from time to time on an as-needed basis during the course of the Agreement and will provide CHA with internet based account management capability including the ability to place orders and is also able to provide repair parts and basic repair and maintenance training to CHA employees or its agents; and

WHEREAS, CHA and the Seller desire to enter into this Agreement to secure the supply and delivery of Appliances from the Seller as more specifically provided hereunder.

NOW THEREFORE, in consideration of the mutual promises and the terms and conditions set forth herein, the CHA and the Seller agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS

Section 1.01 Incorporation of Recitals

The recitals set forth above are incorporated by reference as if fully set forth herein.

Section 1.02 Definitions

"Contract" means the contract entered into between the CHA and the Seller. It includes the Agreement, the General Conditions for Non-Construction Contracts (HUD Form 5370-C), the Certifications and Representations of Offerors – Non-Construction Contracts (HUD Form 5369-C), the Seller's Affidavit and any other exhibits which have been specifically incorporated by reference in the Agreement.

"Large Order" shall mean any of the following for delivery in any 30 day period: (1) ranges in excess of 240 pieces (2) refrigerators in excess of 216 pieces or (3) air conditioners in excess of 400 pieces.

ARTICLE 2. CONTRACTOR'S DUTIES AND RESPONSIBILITIES

Section 2.01 Appliances to be Supplied and Delivered

The Seller will supply and deliver various Appliances and replacement parts to Properties specified by the CHA, and provide the CHA access to the Seller's internet based account management system, and also provide basic repair and maintenance training to the CHA's designated employees or agents (collectively, the "Services") as set forth in Exhibit I, which is attached hereto and incorporated by reference herein. CHA estimates it will order approximately 1,500 each per year of ovens/ranges, top freezer-refrigerators, range hoods and air conditioners) during the term of the Agreement.

Section 2.02 Standard of Performance/Governing Regulations/Guidelines

- A. The Seller and its sub-contractors, if any, shall perform all Services required of it under this Agreement with that degree of skill, care and diligence normally shown by an entity performing services of a scope, purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. The Seller shall at all times use its best effort to assure high quality, timeliness, efficiency and creativity in rendering and completing the Services. The Seller agrees that performance of the Services in a satisfactory manner shall include quick response to the CHA's needs. Accordingly, the Seller shall return all telephone calls and respond to all electronic mail within one (1) business day.
- B. All appliances supplied to the CHA under the Agreement shall be in conformance with all pertinent federal, state and local statutes, ordinances, regulations, rules, recommendations and guidelines.
- C. The Seller shall maintain at all times any required licenses and certifications during the performance of the Services.

D. The Seller shall at all times act in the best interests of the CHA consistent with the Seller's professional obligations assumed by it in entering into this Agreement.

Section 2.03 Key Personnel

Rusha Miles, Government Sales Manager shall be responsible for supervising Seller's personnel and directing the Services to be performed during the term of the Agreement. The Seller retains the right to substitute key personnel with reasonable cause by giving written notice to the CHA, provided that the CHA shall have the right to approve such staff changes and said approval shall not be unreasonably withheld.

Section 2.04 Non-Discrimination

Seller shall comply with all federal, state and local non-discrimination laws, rules, regulations and ordinances including, but not limited to, The Civil Rights Act of 1964, 42 U.S.C. sec. 2000 et seq. (1989), as amended, and all regulations promulgated thereto. Seller shall particularly remain in compliance at all times with: Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000 (e) note, as amended by Exec. Order No. 11,375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. sec. 6101-6106 (1989); Rehabilitation Act of 1973, 29 U.S.C. sec. 793-794 (1988); Fair Housing Amendments Act, 42 U.S.C. Sec. 3601 et seq., (1988); Americans with Disabilities Act of 1990, 42 U.S.C. 12101 and 41 C.F.R. Part 60 et seq., (1990). Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., as amended, and regulations promulgated in accordance therewith, including but not limited to the Equal Employment Opportunity Clause, Ill. Admin. Code Tit. 44 section 750 Appendix A, which is attached hereto as Exhibit II and incorporated by reference herein; Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended. Chicago Human Rights ordinance, s2-160-010 et seq., of the Municipal Code of Chicago, as amended; and the Chicago Fair Housing Regulations, s5-8-010 et seq., of the Municipal Code of Chicago, as amended. In addition, Seller must furnish such reports and information as requested by the Chicago Commission on Human Relations.

Section 2.05 HUD's General Conditions for Non-Construction Contracts

HUD's General Conditions for Non-Construction Contracts (HUD form 5370-C (10/2006)) ("General Conditions"), are attached hereto as Exhibit III and incorporated by reference as if fully set forth herein. The Seller agrees to fully comply with the General Conditions. In the event of a conflict between the terms and conditions of the General Conditions and the terms and conditions of the Agreement, the terms and conditions of the Agreement shall control. In no event shall this paragraph require Seller to comply with Section 3 requirements.

Section 2.06 Ownership of Documents; Records and Reports

All information, data and reports in any form prepared, assembled or encountered by or provided to Seller under this Agreement are the property of the CHA. During the performance of its Services, the Seller shall be responsible for any loss or damage to such Deliverables while in the Seller's possession and shall restore any lost or damaged Deliverables at the Seller's sole cost and expense.

The Seller shall maintain its books and records and adopt a system of accounting in accordance with generally accepted accounting principles and practices, to properly reflect all records related to charges to CHA in connection with the Seller's performance under this Agreement. In addition, the Seller shall keep such books and records in a safe place and make them available for audit, examination, excerpt, and transcription to be conducted by the CHA, HUD, the Comptroller General of the United States or their duly authorized representatives, and allow audit, inspection, copying and abstracting for at least three (3) years after the final payment is made and all other pending matters are closed in connection with this Agreement.

Section 2.07 Audit Requirement

The CHA retains an irrevocable right to independently or, through a third party, audit the Seller's books and records pertaining to this Agreement and disallow any inappropriate billings upon written notice to the Seller. In the event of a disallowance, the Seller shall refund the amount disallowed to the CHA.

Section 2.08 Subcontracts and Assignments

Unless otherwise provided for herein, the Seller shall not subcontract, assign otherwise delegate or otherwise transfer all or any part of its obligations under this Agreement or any part hereof without the prior written approval of the CHA. The absence of such prior written approval shall void the attempted subcontracting, assignment, delegation or transfer and shall have no legal effect on the Services or this Agreement.

The CHA expressly reserves the right to assign or otherwise transfer all or any part of its rights or interests hereunder.

Section 2.09 Drug-Free Workplace

The Seller shall establish procedures and policies to promote a "Drug-Free Workplace." Further, the Seller shall notify all employees of its policy for maintaining a "Drug-Free Workplace," and the penalties that may be imposed for drug abuse violations occurring in the workplace. Further, the Seller shall notify the CHA if any of its employees are convicted of a criminal drug offense in the workplace no later than ten (10) days after such conviction.

Section 2.10 Force Majeure

Notwithstanding any other provision in this Agreement, the Seller shall not be liable or held responsible for any failure to perform or for delays in performing its obligation under the Agreement, including but not limited to, the scope of services set forth hereunder which result from circumstance or causes beyond Seller's reasonable control, including without limitation, fire or casualty, acts of God, strikes or labor disputes, war or violence, or any lay, order or requirement of any government agency or authority. Changes to government energy regulations or energy standards shall be considered a force majeure event with respect to the specified Appliances to be provided hereunder.

ARTICLE 3. TERM OF AGREEMENT

Section 3.01 Term of Agreement

The term of this Agreement is for the period of July 1, 2013 through June 30, 2016 or until the Agreement is terminated in accordance with its terms, whichever occurs first ("Term").

Section 3.02 Contract Extension Options

The CHA, at its sole discretion, may extend this Agreement for 1 additional 1-year option period at the pricing contained on Exhibit IV(b)(the "Option Term"), subject to CHA Board approval, if required. Any extension shall be under the same terms and conditions as this original Agreement. The Agreement shall be modified to reflect the time extension in accordance with the provisions of Section 9.03 of this Agreement.

Section 3.03 Timeliness of Performance

The Seller shall use its best efforts to provide the Services and Deliverables within the time limits required under this Agreement, or from time to time as otherwise required by the CHA. The Seller and the CHA acknowledge that deadlines for certain Services provided for in this Agreement may be dictated by the requirements of agencies or events outside the control of the CHA and the Seller, and the failure by the Seller to meet deadlines may result in economic or other significant losses to the CHA. Therefore, except to the extent that the Seller's inability to meet its deadlines is caused by the delay due to the CHA, by acts of God or other events outside the control of the Seller, TIME IS OF THE ESSENCE, so that failure to perform in a timely manner shall be considered a material breach of the Agreement. Notwithstanding this "TIME IS OF THE ESSENCE" requirement, CHA acknowledges that Large Orders can result in reasonable delay due to production and capacity limitations. Seller agrees to fill Large Orders as soon as reasonably practical.

ARTICLE 4. COMPENSATION AND PAYMENT

Section 4.01 Compensation

- A. This is a requirements contract as defined in HUD Handbook 7460,8 Rev 2, Chapter 10, Section 10.1(C)(3)(a)(ii) based on the Fixed Price Schedule for Appliances as set forth in Exhibit IV, which is attached hereto and incorporated by reference herein, for which CHA may order appliances as-needed up to a maximum amount not-to-exceed \$2,500,000.00 during the term of the Agreement. Except as provided below in Section 4.01.B, all fixed pricing on the Fixed Price Schedule is based on delivery date for Appliances regardless of order date. The Seller agrees not to supply and deliver, and waives any and all claims for payment for the supply and delivery of Appliances or other claims which would result in billings in excess of this not-to-exceed amount. It is mutually understood and agreed by the parties that the above agreed upon not-to-exceed compensation amount is the only compensation provided for in this agreement and there will be no additional compensation payments for Appliances, or other costs and fees without an express written amendment to the Agreement authorizing the purchase of additional Appliances or expenses, and the Seller acknowledges an affirmative duty to monitor the quantity of its supply and delivery of

Appliances and total allowable billings to ensure that the agreed not-to-exceed compensation amount is not exceeded. "Requirements" as used in this paragraph shall be limited to deliveries during the term of this Agreement for immediate use for new construction or replacement in existing construction.

- B. It is agreed that the pricing set forth in the Fixed Price Schedule for Appliances shall be firm during the first year of the Agreement at the prices contained in Exhibit IV(a). Subsequently, the Seller may be entitled to request an equitable price adjustment for the Appliances to be sold under the Agreement based on an increase in either the Metals PPI Series IDWPU10 or the Rubber and Plastic PPI Series IDWPU072 ("Indices") of 2% or more in any 6 month period, up to the amount of the percentage increase of either index, but not both, provided that 30 days' written notice is given to CHA prior to the date the increase is due to go into effect. Any orders placed before CHA receives a notice of a price increase will remain priced at the price in effect at the time of the order. Orders placed within 30 days after the notice will not be subject to the price increase so long as such orders are for delivery within 30 days from their order date. All other orders after the notice shall be subject to the price increase triggered by this paragraph. There may be only one allowable equitable price adjustment per 6 month period during the term of the Agreement. It is further agreed that in the event CHA is not agreeable to Seller's proposed equitable price increase, and CHA and Seller cannot come to an agreement on an equitable price increase, CHA reserves the right to terminate the Agreement at its sole discretion, and in the event of termination, Seller shall only be entitled to payment for such Appliances that have been ordered and delivered.
- C. It is further agreed that Seller may increase its prices for ENERGY STAR compliant refrigerators to be sold and provided under the Agreement after September 15, 2014 provided written notice is provided to CHA 60 days in advance of a price increase based on increased manufacturing costs due to U.S. Department of Energy regulations that are anticipated to go into effect in September 2014 that will require refrigerators to be 25% more energy efficient than models manufactured under the current regulations. The redesign will result in new model numbers to be manufactured after September 2014 that may be less than the 18 cu. Ft. top-freezer ENERGY STAR refrigerators the Seller manufactures that will require more efficient components and changes in the insulation technology, the combined effect of which will impact the cost basis of the refrigerators and therefore, the price. Although the cost increase is unknown at the time of execution of the Agreement, it is agreed that the increase in price will not exceed more than 10% of the original base year contract price and such increase will take effect at the time such new refrigerator models are substituted.
- D. The failure of CHA to place orders for Appliances as estimated in Exhibit I or ordering Appliances in excess of those estimates shall not entitle the Seller to an equitable price adjustment.

Section 4.02 Invoicing and Payment

- A. Invoices. During the term of the Agreement, the Seller shall submit invoices to the CHA's Accounts Payable Department, 60 E. Van Buren Street, 11th Floor, Chicago, Illinois 60605, for approval upon completion of the delivery of the ordered appliance(s) to each CHA Property. Each invoice shall be submitted within ten (10) business days after the delivery of the ordered Appliances. Each invoice shall contain or include back-

up information as required by the CHA, but at a minimum shall include, but not be limited to:

- i. A description of the Appliances delivered to the CHA, including model number and price and number of units delivered;
 - ii. The address of delivery;
 - iii. The name of the Authorized CHA Personnel that ordered the Appliances for delivery and a copy of the signed Bill of Lading; and
 - iv. The CHA issued Purchase Order and Release number assigned to each order for the Appliances.
- B. The CHA shall not be required to give approval or make payments pursuant to a submitted invoice if: (1) the Seller supplies and/or delivers Appliances not ordered by Authorized CHA Personnel (as defined in Exhibit I); or (2) if the information required is not included with each invoice and all the reporting requirements and Deliverables as set forth in this Agreement, or other reasonable and written requests by CHA, have not been met. The Seller shall not be entitled to receive payment unless an invoice, in compliance with this section, relating to such required payment is first submitted to and approved by the CHA.
- C. Time of Payment. Upon the Seller's proper submission of an invoice and supporting information, the CHA shall review the invoice and, if the Seller has supplied and delivered the Appliances in conformance with the terms of the Agreement, make its best efforts to make payment within thirty (30) days of the CHA's receipt and acceptance of the invoice. In no event shall the CHA pay interest for payments submitted to Seller after thirty (30) days.
- D. Support of Invoices. If the CHA objects to all or any portion of any invoices, it shall notify the Seller of its objection and both parties shall make every effort to settle the disputed portion of the invoice. Notwithstanding the foregoing, the CHA may, at its option, pay the undisputed portion of any invoice without being deemed to have accepted the disputed portion.

Section 4.03 Non-Appropriation

Funding for this Agreement is subject to: (1) availability of federal funds from HUD, (2) the approval of funding by the CHA's Board of Commissioners, and (3) the Seller's satisfactory performance of this Agreement. Furthermore, in the event that no funds or insufficient funds are appropriated and budgeted or appropriated funds are rescinded by Congress in any fiscal period of the term of this Agreement for payments to be made under this Agreement, then the CHA may notify the Seller of such occurrence and this Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted.

ARTICLE 5. DISPUTES

Section 5.01 Disputes

In the event of a dispute between the CHA and the Contractor involving this Agreement, both parties will attempt to negotiate a resolution. If the parties cannot resolve the dispute through negotiation, both parties shall follow the procedures set forth in Section No. 7 of the HUD General Conditions.

ARTICLE 6. RISK MANAGEMENT

Section 6.01 Insurance

The Seller agrees to comply with and meet or exceed all of CHA's insurance requirements that are set forth in Exhibit V, which is attached hereto and incorporated by reference herein as if fully set forth herein.

Section 6.02 Indemnification

Seller agrees to indemnify, defend and hold harmless CHA and CHA's parent, subsidiaries and affiliates and those parties' officers, directors, agents and employees and their successors and assigns against any and all claims, actions, liabilities, losses, costs, and expenses (including, without limitation, reasonable attorney fees) of any kind or nature whatsoever and by any party whatsoever arising or alleged to have arisen in whole or in part out of:

- 1) any negligent act or omission of Seller, its employees, agents or subcontractors;
- 2) a defect in the products or design that results in damage, injury or death provided the product was used in accordance with applicable manufacturer's directions for use and care accompanying each product.

Seller will not be responsible or liable to Buyer for such loss or damage to the extent that the Buyer or a third party causes the loss or damage.

In the event that any part or section of this provision is held to be unenforceable, void or voidable or contrary to law or public policy of any jurisdiction entitled to exercise authority hereunder, the remaining portions of this provision may nevertheless continue in full force and effect. Without limitation, the indemnification obligations under this document shall survive the expiration or termination of this Agreement.

ARTICLE 7. EVENTS OF DEFAULT, REMEDIES, TERMINATION, RIGHT TO OFFSET, SUSPENSION

Section 7.01 Events of Default Defined

Each of the following shall constitute an event of default:

- A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Seller to the CHA.
- B. The Seller's failure to perform any of its obligations under this Agreement including, but not limited to, the following:
 - 1. Failure to perform the Services with sufficient personnel or with sufficient material to ensure the performance of the Services or due to a reason or circumstance within the Seller's control;
 - 2. Failure to meet any of the performance standards set forth in this Agreement;
 - 3. Failure to perform the Services in a manner reasonably satisfactory to the CHA, or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
 - 4. Failure to promptly re-perform within a reasonable time Services or Deliverables that were rejected as erroneous or unsatisfactory;
 - 5. Discontinuance of the Services for reasons or circumstances not beyond the Seller's control;
 - 6. Failure to comply with a material term of this Agreement, including, but not limited to, the provisions concerning compliance with HUD regulations, insurance and nondiscrimination; and
 - 7. Any other acts specifically and expressly stated in this Agreement as constituting an event of default.
- C. Any change in majority ownership or majority control of the Seller without the prior written approval of the CHA, which written approval shall not be unreasonably withheld.
- D. The Seller's default under any other agreement it may presently have or may enter into with the CHA during this Agreement. The Seller acknowledges and agrees that in the event of a default under this Agreement the CHA may also declare a default under any such other agreements.

Section 7.02 Remedies

The occurrence of any event of default which the Seller fails to cure within thirty (30) calendar days after receipt of written notice given in accordance with the terms of this Agreement and specifying the event of default or, if such event of default cannot be reasonably cured within thirty (30) calendar days after notice, or if the Seller has failed to commence and continue diligent efforts to cure such default within thirty (30) days, the CHA may, at its sole option, declare the Seller in default. Whether to declare the Seller in default is within the sole discretion of the CHA and neither that decision nor the factual basis for it is subject to review or

challenge under the disputes provision of this Agreement. Written notification of the default, and any intention of the CHA to terminate the Agreement, shall be provided to the Seller and such decision shall be final and effective upon the Seller's receipt of such notice pursuant to Article 10. Upon the giving of such notice, the CHA may invoke any or all of the following remedies:

- A. The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the CHA.
- B. The right to pursue any and all remedies, legal and/or equitable, available to the CHA.
- C. The right to withhold all or any part of Seller's compensation hereunder with respect to Services not completed in accordance with the terms hereof prior to the termination of this Agreement.
- D. The right to deem Seller non-responsible in future contracts to be awarded by the CHA.
- E. The right to take over and complete the Services or any part thereof as agent for and at the cost of contractor, either directly or through others.

If the CHA considers it to be in its best interests, it may elect not to declare default or to terminate the Agreement hereunder. The parties acknowledge that this provision is solely for the benefit of the CHA and that if the CHA permits Seller to continue to provide the Services despite one or more events of default, the Seller shall in no way be relieved of any of its responsibilities, duties or obligations under this Agreement nor shall the CHA waive or relinquish any of its rights.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or failure to exercise any right or power accruing upon any event of default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 7.03 Termination for Convenience

The CHA may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by written notice from the CHA to Seller when the Agreement may be deemed to be no longer in the best interests of the CHA. If the CHA elects to terminate the Agreement in full, all Services to be performed hereunder shall cease effective ten (10) calendar days after the date written notice has been provided. The Seller shall continue to render the services until the effective date of termination. No cost incurred by the Seller after the effective date of termination shall be allowed. Subject to performance within the requisite performance standards and audits of invoices as set forth above, the CHA shall pay to Seller on a pro-rata basis, costs incurred for Services rendered through the date of termination. This Section 7.03 is not subject to Article 5 of this Agreement.

The Seller shall flow down the provisions of Section 7.03 in all of its contracts with its subcontractors, if any.

Section 7.04 Suspension

The CHA may at any time request that the Seller suspend its Services, or any part thereof, by giving ten (10) days prior written notice to the Seller or upon no notice in the event of an emergency. No costs incurred after the effective date of such suspension shall be allowed. The Seller shall promptly resume its performance of such Services under the same terms and conditions as stated herein upon written notice by the CHA (Director of Procurement and Contracts).

Section 7.05 No Damages for Delay

The Seller agrees that it shall make no claims against the CHA for damages, charges, interest, additional costs or fees incurred by reason of delays or suspension of work caused by the CHA in the performance of its obligations under this Agreement. The Seller's sole and exclusive remedy for delays or suspension of work caused by the CHA is an extension of time equal to the duration of delay or suspension to allow the Seller to perform its obligation under this Agreement.

Section 7.06 Right to Offset

To the extent permitted by applicable law:

- A. In connection with performance under the Agreement, the CHA may offset any incremental costs and other damages the CHA incurs in any and all of the following circumstances:
 - i. If the CHA terminates the Agreement for default or any other reason resulting from the Seller's performance or non-performance;
 - ii. If the CHA exercises any of its remedies under Section 7.02 of the Agreement;
 - iii. If the CHA has any credits due or has made any overpayments under the Agreement.

The CHA may offset these incremental costs and any other damages by use of any payment due for Services completed before the CHA terminated the Agreement or before the CHA exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, the Seller shall be liable for and must promptly remit to the CHA the balance upon written demand for it. The right to offset is in addition to and not a limitation of any other remedies available to the CHA.

- B. Without breaching this Agreement, the CHA may set off a portion of the compensation due under this Agreement in an amount equal to the amount of any liquidated or unliquidated damages or claims that the CHA has against the Seller arising out of any other agreements between the CHA and the Seller or otherwise unrelated to this Agreement. If and when the CHA's claims against the Seller are finally adjudicated in a court of

competent jurisdiction or otherwise resolved, the CHA will reimburse the Seller to the extent of the amount the CHA has offset against this Agreement inconsistently with the determination or resolution.

ARTICLE 8. WARRANTIES, REPRESENTATIONS AND SPECIAL CONDITIONS

Section 8.01 Warranties, Representations and Covenants

In connection with the execution of this Agreement, the Seller warrants and represents to CHA for the Appliances Division only:

- A. That it is financially solvent; and that it and each of its employees or agents of any tier are competent to perform the Services required under this Agreement; and that Seller is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated herein.
- B. That no officer, agent or employee of the CHA is employed by the Seller or has a financial interest directly or indirectly in this Agreement or the compensation to be paid hereunder, except as may be permitted in writing by the CHA and HUD, and that no payment, gratuity or offer of employment shall be made in connection with this Agreement by or on behalf of the Seller to any employee of the CHA; and the Seller further acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions set forth herein shall be voidable as to the CHA.
- C. That Seller and its subcontractors, if any, are not in default at the time of the execution of this Agreement, or deemed by the CHA's Director of Procurement and Contracts to have, within the last five (5) years, been found to be in default on any contract awarded by the CHA.
- D. That, except only for those representations, statements, or promises expressly contained in this Agreement, and any exhibits attached hereto and incorporated by reference herein, no representation, statement or promise, oral or in writing, or of any kind whatsoever, by the CHA, its officials, officers, agents, or employees, has induced the Seller to enter into this Agreement or has been relied upon by the Seller.
- E. That the Seller has carefully examined and analyzed the provisions and requirements of this Agreement and that it understands the nature of the Services required;
- F. That the Seller acknowledges that the CHA, in its selection of the Seller to perform the Services hereunder, materially relied upon the Seller's Proposal, that the Proposal was accurate at the time it was made and that no material changes in it have been nor will be made without the express consent of the CHA;
- G. That except only for those representations, statements, or promises expressly contained in this Agreement, and any exhibits attached hereto and incorporated by reference herein, no representation, statement or promise, oral or in writing, or of any kind whatsoever, by the CHA, its officials, officers, agents, or employees, has induced Seller to enter into this Agreement or has been relied upon by Seller.

- G. That the Seller and, to the best of its knowledge, its subcontractors are not in violation of the provisions of 18 U.S.C. § 666 (a)(2) and other Federal criminal laws applicable to public contracts funded with federal government funds, the Illinois Criminal Code, 720 ILCS 5/33E-1 et seq. (1989), as amended; and the CHA's Ethics Policy, as amended (see http://www.thecha.org/pages/forms_documents/66.php) and during the term of the Agreement will not violate the provisions of such laws and policies.
- H. That the Seller has disclosed any and all relevant information to the CHA and the Seller understands and agrees that any certification, affidavit or acknowledgment made under oath or failure to disclose in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination of this Agreement.
- I. That the Seller is a duly organized and validly existing corporation under the laws of the State of New York and has and will continue to have at all times during the term of this Agreement, all licenses necessary to render the Services required hereunder.
- J. That the Seller has the power and authority to enter into and perform all of its obligations under this Agreement, and that this Agreement, when executed will constitute the duly authorized, valid and legally binding obligation of the Seller.

Section 8.02 Joint and Several Liability

In the event that the Seller, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof), then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by the Seller shall be the joint and several obligation or undertaking of each individual or other legal entity. Notwithstanding this paragraph 8.02, which merely is a guarantee of performance by Seller, Seller does not warrant or otherwise make any representations on behalf of any entity other than the Appliances Division of General Electric Company.

Section 8.03 Business Documents and Seller's Affidavit

The Seller shall provide to the CHA evidence of its authority to conduct business in the State of Illinois, including without limitation, registrations of assumed names or limited partnerships and certifications of good standing with the Office of the Secretary of the State of Illinois. The Seller's Contractor's Affidavit, Contractor's Certifications and Representations of Offerors – Non-Construction Contracts (HUD Form 5369-C) and Equal Opportunity Certificate are attached hereto as Exhibit VI and incorporated by reference as if fully set forth herein.

Section 8.04 Conflict of Interest

- A. No member of the governing body of the CHA or other units of government and no other officer, employee, or agent of the CHA or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains, shall have any personal interest, direct, or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly or CHA employee shall be entitled to any share or part of this Agreement or to any financial benefit to arise from it.

- B. The Seller covenants that it and its employees, or sub-contractors, presently have no interest and shall acquire no interest, direct or indirect, in this Agreement which would conflict in any manner or degree with the performance of the Services hereunder. The Seller further covenants that during the performance of this Agreement, no person having any such interest shall be employed. Seller agrees that if the CHA determines that any of Seller's services for others conflict with the Services that the Seller is to render for the CHA under this Agreement; Seller shall terminate such other services immediately upon request of the CHA.
- C. Additionally, pursuant to the conflict of interest requirements in OMB Circular A-102 and 24 C.F.R. §85.36(b)(3), no person who is an employee, agent, consultant, officer, or appointed official of the CHA and who exercises or has exercised any functions or responsibilities with respect to HUD assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to HUD activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds hereunder, either for himself or herself or for those whom he or she has family or business ties, during his or her tenure or for one year thereafter.
- D. Furthermore, the Seller represents that it currently is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal year 1990, 31 U.S.C. Subsection 1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended.

Section 8.05 Non-Liability of Public Officials

No official, employee or agent of the CHA shall be personally liable to the Seller or the Seller's successor in interest for: (i) any default or breach by the CHA under this Agreement, (ii) any fee due to the Seller or the Seller's successor in interest or (iii) any other obligation arising under this Agreement.

Section 8.06 Independent Contractor

The Seller and the CHA recognize that Seller is an independent contractor and not an employee, agent, partner, joint venturer, covenantor, or representative of the CHA and that CHA will not incur any liability as the result of Seller's actions. Seller and its employees, representatives, and agents shall at all times represent and disclose that they are independent contractors of the CHA and shall not represent to any third party that they are an employee, agent, covenantor, or representative of the CHA. The CHA shall not be obligated to withhold any funds from Seller for tax or other governmental purposes, with respect to its employees, agents, representative or subcontractors. Seller and its employees, representatives, and agents shall not be entitled to receive any employment benefits offered to employees of the CHA including workers' compensation insurance coverage.

ARTICLE 9. GENERAL CONDITIONS

Section 9.01 Entire Agreement

This Agreement and the Exhibits attached hereto shall constitute the entire agreement between the parties hereto relating to the subject matter hereof and no other warranties, inducements, considerations, covenant, conditions, promises or interpretations shall be implied between the parties that are not set forth herein. In the event of a conflict between the Agreement and any Exhibits that have been incorporated by reference, the terms of the Agreement shall control.

Section 9.02 Counterparts

This Agreement may be executed in several identical counterparts, each of which shall be deemed an original and constitute one Agreement binding on the parties hereto.

Section 9.03 Amendments

No changes, amendments, modifications, or discharge of this Agreement, or any part thereof, shall be valid unless in writing and signed by the authorized agent of the Seller and by the CEO of the CHA or his/her respective designees. Purchase Orders issued by the CHA may not be used to amend or alter the terms and conditions of the Agreement. The CHA shall incur no liability for the supply and delivery of additional appliances (other than Appliances covered by this Agreement, or proper substitutions thereof) or Appliances that would cause the not-to-exceed compensation amount set forth in Section 4.01 to be exceeded without a written amendment to this Agreement pursuant to this Section.

Whenever in this Agreement the Seller is required to obtain prior written approval, the effect of any approval which may be granted pursuant to the Seller's request shall be prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event may approval apply retroactively to a date before the approval was granted.

Section 9.04 Compliance with All Laws and Regulations

- A. The Seller shall at all times observe and comply with all applicable laws, ordinances, rules, regulation and executive orders of the federal, state and local government, now existing or hereinafter in effect, which may in any manner affect the performance of this Agreement, including but not limited to HUD regulations, the Uniform Administrative Requirements contained in 24 C.F.R. Section 85.1 et seq., (1993), as amended; Title VI of the Civil Rights Act of 1967 (42 U.S.C. 2000d et seq.); Fair Housing Act (42 U.S.C. 3601-20 et seq.); Executive Order 11063, as amended by Executive Order 12259; Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Rehabilitation Act of 1973 (29 U.S.C. 794); Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.); National Environmental Policy Act of 1969 (24 C.F.R. Part 58); Clean Air Act (42 U.S.C. § 7401/et seq.); Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), as amended; Executive Order 11246, as amended by Executive Orders 12086 and 11375; Executive Order 12372; Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 276); Byrd "Anti-Lobbying"

Amendment (31 U.S.C. § 1352); and Debarment and Suspension (Executive Orders 12549 and 12689). Additionally, the Seller shall comply with the applicable provisions of OMB Circulars A-133, A-102, A-122, A-110 and A-87, as amended, succeeded or revised; and the Mandatory Standards and Policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with Energy Policy and Conservation Act (Pub. L 94-163, 89 Stat. 871).

- B. The Seller shall take such actions as may be necessary to comply promptly with any and all governmental orders imposed by any duly constituted government authority whether imposed by Federal, state, county or municipal authority.

Section 9.05 Deemed Inclusion

Provisions required by law, ordinances, rules, regulations or executive orders to be included in this Agreement are deemed inserted in this Agreement whether or not they appear in the Agreement or, upon application of either party, the Agreement shall be amended to make this insertion; however, in no event shall the failure to insert the required provisions before or after the Agreement is signed prevent its enforcement.

Section 9.06 Severability

If any provisions of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions hereof or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

Section 9.07 Jurisdiction

This Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. In the event a dispute cannot be resolved in accordance with the provisions of Article 5 and for other matters not covered by Article 5, the Seller hereby irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. The Seller agrees that service of process on the Seller may be made, at the option of the CHA, either by registered or certified mail addressed to the applicable office as provided for in this Agreement and to the office actually maintained by the Seller, or by personal delivery on any managing partner, partners and principals of the Seller. If the Seller brings any action against the CHA concerning this Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

Section 9.08 Interpretation

Any headings of this Agreement are for convenience of reference only and do not define

or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions hereof and thereof. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of this Agreement.

Section 9.09 Assigns

All of the terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, transferees and assigns.

Section 9.10 Cooperation

The Seller agrees at all times to cooperate fully with the CHA and to act in the CHA's best interests. If this Agreement is terminated for any reason, or if it is to expire on its own terms, the Seller shall make every effort to assure an orderly transition to another Seller, the uninterrupted provision of Services during any transition period and shall otherwise comply with the reasonable requests and requirements of the CHA in connection with the termination or expiration of this Agreement. In no event shall this paragraph 9.10 be construed to extend pricing beyond the term of this Agreement. In the last 180 days of the Term, or at any time during the Option Term, upon request, Seller will provide CHA with a project quote for firm pricing that extends to a particular project for delivery dates beyond the Term or Option Term.

Section 9.11 Waiver

Whenever under this Agreement the CHA, by a proper authority, expressly waives the Seller's performance in any respect or expressly waives a requirement or condition to either the CHA's or the Seller's performance, the waiver so granted, shall only apply to the particular instance and shall not be deemed a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver shall be construed as a modification of the Agreement regardless of the number of times the CHA may have waived the performance of a requirement or condition.

ARTICLE 10. COMMUNICATION AND NOTICES

Section 10.01 Communication Between the Parties

All verbal and written communication, including required reports and submissions between the Seller and the CHA shall be through CHA's Capital Construction Division, 60 E. Van Buren St., Chicago, IL 60605 when required. No verbal communication between the parties shall change any of the terms and conditions of this Agreement. Nothing stated herein shall be construed as a waiver or modification of the requirements for notice or service of process of litigation, as set forth in the Illinois Code of Civil Procedure, the Federal Rules of Civil Procedure, the local rules of the Circuit Court of Cook County, and the local rules governing the

U.S. District Court for the Northern District of Illinois.

Section 10.02

Notices

Any notices sent to the Seller shall be mailed by certified mail, return receipt requested, postage prepaid to:

GE Appliances, a Division of the General Electric Co.
307 N. Hurstbourne Parkway
Louisville, Kentucky 40222
Attention: Rusha Miles, Government Sales Manager

Notices sent to the CHA shall be mailed by certified mail, return receipt requested, postage prepaid to:

Chicago Housing Authority
60 E. Van Buren St., 13th Floor
Chicago, Illinois 60605
Attention: V. P. - Capital Construction Division

Copy to

Chicago Housing Authority
60 E. Van Buren St., 12th Floor
Chicago, Illinois 60605
Attention: Chief Legal Officer

ARTICLE 11. AUTHORITY

Section 11.01 CHA's Authority

Execution of this Agreement by the CHA is pursuant to the United States Housing Act of 1937, 42 U.S.C. §1437 et seq.; regulations promulgated by HUD, and the State Housing Authorities Act, 310 ILCS 10/1 et seq., as amended, and other applicable laws, regulations and ordinances.

Section 11.02 Seller's Authority

The signature of the person signing on behalf of the Seller has been made with complete and full authority to commit the Seller to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained herein, including without limitation such representations, certifications and warranties collectively attached hereto and incorporated by reference herein.

IN WITNESS WHEREOF, the CHA and the Seller have executed this Agreement as of the date first written above.

CHICAGO HOUSING AUTHORITY

**GE APPLIANCES, A DIVISION OF
THE GENERAL ELECTRIC
COMPANY**

BY: Linda Riley Mitchell
~~Linda Reilly Mitchell~~ Linda Riley Mitchell
Chief Financial Officer

By: Rusha Miles
Rusha Miles
Government Sales Manager

Approved as to Form and Legality
Chicago Housing Authority
Office of the General Counsel

BY: _____

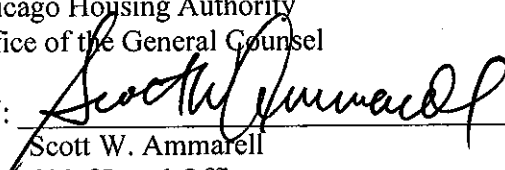

Scott W. Ammarell
Chief Legal Officer

EXHIBIT I

STATEMENT OF WORK

1. Requirements Contract

This Agreement is a Requirements Contract, as defined in the HUD Handbook 7460.8 REV 2, available at www.hudclips.org. The Seller and the CHA agree that the Seller will fill all of the CHA's purchase requirements for the Appliances specified herein during the term of the Agreement. CHA estimates it will order approximately 1,500 each per year of ovens/ranges, top-freezer-refrigerators, range hoods and air conditioners (previously defined as "Appliances") during the term of the Agreement. However, should the Seller be unable to fulfill CHA's purchase requirements at any time during the term of this Agreement, CHA may, at its sole option and discretion, purchase Appliances directly from another vendor.

2. Supply and Delivery of Appliances

The Seller shall supply and deliver the Appliances or approved equivalents to various Properties or other locations to be specified in writing by CHA's Contracting Officer, or his/her designee. The Appliances to be ordered under the Agreement are as follows:

- A. Model No.: General Electric "JGBS04BE" (GE® 30" Free-Standing Gas Range) or equivalent as approved in writing by the CHA;
- B. Model No.: General Electric "JGBP27DE" (GE® 30" Free-Standing Gas Range - ADA) or equivalent as approved in writing by the CHA;
- C. Model No.: General Electric "JN327H" (GE® 30" Range Hood - 160 CFM - non-vented) or equivalent as approved in writing by the CHA;
- D. Model No.: General Electric "JN338H" (GE® 30" Range Hood - 160 CFM - vented) or equivalent as approved in writing by the CHA;
- E. Model No.: General Electric "JV535" (GE® 30" Range Hood - 220 CFM) or equivalent as approved in writing by the CHA;
- F. Model No.: General Electric "GTH18CB" (GE® Energy Star® 18.0 Cu. Ft. Top-Freezer Refrigerator) or equivalent as approved in writing by the CHA;
- G. Model No.: General Electric "GTH18DB" (GE® Energy Star® 18.0 Cu. Ft. - ADA Top-Freezer Refrigerator) or equivalent as approved in writing by the CHA;
- H. Model No.: General Electric "AJCQ08ACE" (GE Energy Star Room Air Conditioner 8,200 BTU - Built-in) or equivalent as approved in writing by the CHA;
- I. Model No.: General Electric "AJCQ12ACE" (GE Energy Star Room Air Conditioner 8,200 BTU - Built-in) or equivalent as approved in writing by the CHA;
- J. Model No.: General Electric "RAB46A" (GE Wall Case/Sleeve) or equivalent as approved in writing by the CHA

3. Ordering of Appliances and Procedures

- A. The Seller shall only accept orders for Appliances from CHA's authorized employees or agents (hereinafter, "Authorized CHA Personnel"), who will be designated in writing to the Seller by the CHA's Contracting Officer, or his/her designee.
- B. Authorized CHA Personnel may order Appliances online through Seller's web based ordering system, through an e-mail from Authorized CHA Personnel to Seller's purchasing manager or designee, which must be verified by Seller, or through a CHA purchase order signed by CHA's Contracting Officer, or his/her designee. In the event CHA orders Appliances through use of its Purchase Orders, and there is a conflict between the terms and conditions of the Agreement and the terms and conditions of the Purchase Order, the terms and conditions of this Agreement shall control.
- C. The CHA shall not be responsible for payment of Appliances delivered to Properties or other locations unless the orders have been placed by Authorized CHA Personnel. (Also see Section 4.02.B)

4. Delivery

- A. "Just-in Time" "Curbside Delivery". The Seller shall provide "Just-in Time" "curbside delivery", which is defined as delivery within no later than five (5) business days after the Seller's receipt of an order from Authorized CHA Personnel that is submitted by 2 p.m. Central Standard Time and the off-loading of appliances from the Seller's delivery truck onto the property in the location designated by the Authorized CHA Personnel responsible for placing the order.

Prior to any delivery of appliances under the Agreement, the Seller shall contact the Authorized CHA Personnel responsible for placing the order to schedule a date and time for the delivery of the appliances. The Seller shall not deliver appliances until the Authorized CHA Personnel have confirmed their availability to accept the scheduled delivery.

- B. CHA, may at its sole option and discretion, as determined by its Contracting Officer, or his/her designee, have its agents pick-up ordered Appliances at Seller's closest warehouse facility, provided written notice is given to Seller by CHA's Contracting Officer, or his/her designee, and Seller shall be responsible to load the Appliances on CHA's or its agents' trailers.
- C. Backorders. Should any ordered Appliances not be available at the time of order entry, the Seller shall immediately, or as soon as is reasonably possible after an order has been submitted, provide an estimated time of availability to the Authorized CHA Personnel, which is subject to CHA's approval in writing. If CHA does not accept the estimated time of availability in writing, the Seller shall offer available equivalent Appliance(s) at no additional cost as a replacement, subject to CHA's approval in writing. If the CHA does not approve the equivalent Appliance(s) in writing, the CHA, within its sole discretion, may (1) approve the order to be placed on backorder for shipment

based upon the estimated availability, or (2) CHA purchase Appliances directly from another vendor at no cost to Seller, as set forth herein.

D. Transportation. All appliances shall be properly packed, marked and delivered to the locations specified by the CHA in each order. The Seller shall route all deliveries in accordance with the CHA's instructions.

E. Risk of Loss.

i. Curbside delivery shall be F.O.B. destination, and delivery shall be tendered in the following manner:

a. At the time of delivery, the Seller must provide a Bill of Lading to CHA, which may only be accepted and must be signed by CHA's project manager, field manager or other authorized CHA representative, who will be designated by CHA prior to the scheduled delivery of the Appliances.

b. Delivery shall not be complete until the appliances have been actually delivered to and accepted by the CHA. The risk of loss or damage of Appliances in transit shall be upon the Seller. Acceptance will be deemed to occur at the time an authorized representative of CHA signs the Bill of Lading.

c. The Seller warrants that, upon acceptance of delivery of the appliances by CHA's authorized representatives, title shall pass to the CHA free and clear of all liens, claims, security interests, or encumbrances and that no Appliances purchased hereunder shall be subject to any separate agreement under which any interest therein or encumbrance thereon is retained by any third party.

ii. If ordered Appliances are picked by CHA at Seller's warehouse as provided in 4(B) above, delivery will be deemed to occur and risk of loss will transfer to CHA, upon Seller's completion of loading the Appliances on CHA's trailer's or vehicles and acceptance will be deemed to occur after CHA's authorized representative or transportation agent signs the Bill of Lading, which will be provided by Seller.

5. Seller's Appliance Warranties

Throughout the term of the Agreement, the Seller agrees to provide CHA with its standard express one (1) year manufacturer's warranty for each appliance supplied from the date of delivery. The warranty shall cover all parts, labor and material up to and including replacement of un-repairable appliances during the term of the warranty. The return and replacement of defective, un-repairable Appliances shall be at Seller's expense in accordance with the terms of Seller's warranty. Appliances required to be corrected or replaced shall be subject to this warranty and a new warranty period and to

the Appliance specifications contained in the Agreement to the same extent as Appliances originally delivered under the Agreement.

5. Internet Based Account Management System

The Seller agrees to provide the CHA with access to an internet (web based) ordering, tracking, inventory management, replacement parts ordering and account management system. The Seller's internet based account management system shall be restricted and only allow access to, and accept orders from, Authorized CHA Personnel by use of industry standard security. The CHA's Contracting Officer, or his/her designee will provide the Seller with an updated list of Authorized CHA Personnel from time to time as may be necessary.

7. Inventory of Repair Parts

The Seller agrees to maintain an inventory of repair parts required for servicing the appliances for the life expectancy of the appliances to be supplied and delivered under the Agreement. The delivery of repair parts is subject to the same requirements set forth in this Section for the delivery of appliances. This provision shall survive the termination or expiration of the Agreement.

8. Training

The Seller agrees to provide a basic training program that addresses basic repair and maintenance of the appliances. The training program shall include the following areas of concentration:

- i. basic repair and maintenance of appliances;
- ii. trouble shooting of common problems;
- iii. diagnosing common problems;
- iv. updates to Technical Bulletins and their affect on current stock of appliances;
- and
- v. basic installation training.

9. Override Agreement

Unless otherwise agreed to by the CHA and the Seller in writing, this Agreement shall apply to all purchase orders and other documents of purchase (herein collectively referred to as "Purchase Orders") which the CHA may place with the Seller for the Appliances covered hereby after the effective date of this Agreement. The terms and conditions of this Agreement shall apply to any such Purchase Orders whether or not this Agreement or its terms and conditions are expressly referenced therein.

No inconsistent or additional term or condition in any purchase orders shall be applicable to a transaction within the scope of this Agreement unless specifically authorized by a written amendment to the Agreement.

EXHIBIT II

ILLINOIS EQUAL OPPORTUNITY CLAUSE

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 750 PROCEDURES APPLICABLE TO ALL AGENCIES

SECTION 750.APPENDIX A EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

Section 750.APPENDIX A Equal Employment Opportunity Clause EQUAL EMPLOYMENT OPPORTUNITY

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause or the Act, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

- 1) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
- 2) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with this Part) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
- 3) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.
- 4) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and this Part. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and this Part, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

- 5) That he or she will submit reports as required by this Part, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and this Part.
- 6) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
- 7) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

(Source: Amended at 35 Ill. Reg. 3695, effective February 18, 2011)

EXHIBIT III

GENERAL CONDITIONS FOR NON-CONSTRUCTION CONTRACTS HUD FORM 5370-C (10/2006)

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban
Development
Office of Public and Indian Housing
Office of Labor Relations
OMB Approval No. 2577-0157 (exp. 3/31/2010)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) **Non-construction contracts** (without maintenance) greater than \$100,000 - use Section I;
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) greater than \$2,000 but not more than \$100,000 - use Section II; and
- 3) **Maintenance contracts** (including nonroutine maintenance), greater than \$100,000 - use Sections I and II.

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Section I - Clauses for All Non-Construction Contracts greater than \$100,000
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1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

- (d) proposal submitted before final payment of the contract.
- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

- (a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
 - (i) appeals under the clause titled Disputes;
 - (ii) litigation or settlement of claims arising from the performance of this contract; or,
 - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

The contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

9. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
 - (i) Award of the contract may result in an unfair competitive advantage; or
 - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

- (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any

product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

- (a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before 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 any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

- (b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of:

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

20. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

21. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure 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. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

EXHIBIT IV (a)

SCHEDULE OF APPLIANCE PRICES*** (May 1, 2013 through April 30, 2016)

APPLIANCE DESCRIPTION	UNIT COST*
1. Model No.: General Electric "JGBS04BE" (GE® 30" Free-Standing Gas Range) or equivalent as approved in writing by the CHA	\$338.00
2. Model No.: General Electric "JGBP27DE" (GE® 30" Free-Standing Gas Range - ADA) or equivalent as approved in writing by the CHA	\$571.00
3. Model No.: General Electric "JN327H" (GE® 30" Range Hood – 160 CFM – non-vented) or equivalent as approved in writing by the CHA	\$ 38.00
4. Model No.: General Electric "JN338H" (GE® 30" Range Hood – 160 CFM – vented) or equivalent as approved in writing by the CHA	\$ 47.00
5. Model No.: General Electric "JV535" (GE® 30" Range Hood – 220 CFM) or equivalent as approved in writing by the CHA	\$150.00
6. Model No.: General Electric "GTH18CB" (GE® Energy Star® 18.0 Cu. Ft. Top-Freezer Refrigerator) or equivalent as approved in writing by the CHA	\$453.00**
7. Optional Model No.: General Electric "GTH18EB" (GE® Energy Star® 18.0 Cu. Ft. – ADA Top-Freezer Refrigerator) or equivalent as approved in writing by the CHA	\$539.00**
8. Model No.: General Electric "GTH18EB" (GE® Energy Star® 18.0 Cu. Ft. – ADA Top-Freezer Refrigerator) or equivalent as approved in writing by the CHA	\$539.00**
9. Model No.: General Electric "AJCQ08ACE" (GE Energy Star Room Air Conditioner 8,200 BTU – Built-in) or equivalent as approved in writing by the CHA	\$380.00
10. Model No.: General Electric "AJCQ12ACE" (GE Energy Star Room Air Conditioner 8,200 BTU – Built-in) or equivalent as approved in writing by the CHA	\$419.00
11. Model No.: General Electric "RAB46A" (GE Wall Case/Sleeve) or equivalent as approved in writing by the CHA	\$ 39.00

* See Section 4.01(B) with respect to possible Equitable Price Adjustment after first year of Agreement.

** See Section 4.01(C) with respect to price adjustment following anticipated changes in DOE ENERGY-STAR regulations due in September 2014 for refrigerators manufactured after the effective date of the regulations that will go into effect September 15, 2014.

*** Except as provided in Section 4.01.B, all fixed pricing on the Fixed Pricing Schedule is based on delivery date for Appliances regardless of order date.

EXHIBIT IV (b)
SCHEDULE OF APPLIANCE PRICES***
(OPTION Term - May 1, 2016 through April 30, 2017)

APPLIANCE DESCRIPTION	UNIT COST*
1. Model No.: General Electric "JGBS04BE" (GE® 30" Free-Standing Gas Range) or equivalent as approved in writing by the CHA	\$358.00
2. Model No.: General Electric "JGBP27DE" (GE® 30" Free-Standing Gas Range - ADA) or equivalent as approved in writing by the CHA	\$605.00
3. Model No.: General Electric "JN327H" (GE® 30" Range Hood – 160 CFM – non-vented) or equivalent as approved in writing by the CHA	\$ 40.00
4. Model No.: General Electric "JN338H" (GE® 30" Range Hood – 160 CFM – vented) or equivalent as approved in writing by the CHA	\$ 50.00
5. Model No.: General Electric "JV535" (GE® 30" Range Hood – 220 CFM) or equivalent as approved in writing by the CHA	\$159.00
6. Model No.: General Electric "GTH18CB" (GE® Energy Star® 18.0 Cu. Ft. Top-Freezer Refrigerator) or equivalent as approved in writing by the CHA	\$480.00**
7. Optional Model No.: General Electric "GTH18EB" (GE® Energy Star® 18.0 Cu. Ft. – ADA Top-Freezer Refrigerator) or equivalent as approved in writing by the CHA	\$571.00**
8. Model No.: General Electric "GTH18DB" (GE® Energy Star® 18.0 Cu. Ft. – ADA Top-Freezer Refrigerator) or equivalent as approved in writing by the CHA	\$571.00**
9. Model No.: General Electric "AJCQ08ACE" (GE Energy Star Room Air Conditioner 8,200 BTU – Built-in) or equivalent as approved in writing by the CHA	\$403.00
10. Model No.: General Electric "AJCQ12ACE" (GE Energy Star Room Air Conditioner 8,200 BTU – Built-in) or equivalent as approved in writing by the CHA	\$444.00
11. Model No.: General Electric "RAB46A" (GE Wall Case/Sleeve) or equivalent as approved in writing by the CHA	\$ 41.00

* See Section 4.01(B) with respect to possible Equitable Price Adjustment

** See Section 4.01(C) with respect to a price adjustment following anticipated changes in DOE ENERGY-STAR regulations due in September 2014 for refrigerators manufactured after the effective date of the regulations - refrigerator pricing may be subject to an increase not-to-exceed 6% above refrigerator pricing that may go into effect on September 15, 2014.

*** Except as provided in Section 4.01.B, all fixed pricing on the Fixed Pricing Schedule is based on delivery date for Appliances regardless of order date.

EXHIBIT V

INSURANCE REQUIREMENTS

Insurance

Prior to the commencement of this Agreement, the Seller agrees to procure and maintain at all times during the term of this Agreement, the types of insurance specified below in order to protect the CHA from the acts, omissions and negligence of the Seller, its officers, officials, subcontractors, joint ventures, partners, agents or employees. The insurance carriers used by the Seller must be authorized to conduct business in the State of Illinois and shall have a BEST Rating of not less than an "A". The insurance provided shall cover all operations under the Agreement, whether performed by the Seller or by its subcontractor, joint ventures, partners, agents, officers or employees.

A. Required Insurance Coverage

1. Workers Compensation and Occupational Disease Insurance

Workers Compensation and Occupational Disease Insurance in accordance with the laws of the State of Illinois (Statutory) Coverage A, and Employer's Liability, Coverage B, in an amount of not less than \$500,000/\$500,000/\$500,000.

2. Commercial/General Liability Insurance written on an occurrence form (Primary and Excess Liability)

Commercial/General Liability Insurance provided is to have limits of not less than One Million Dollars (\$1,000,000) per occurrence with an Aggregate of not less than One Million Dollars (\$1,000,000) (i.e. \$1,000,000/\$2,000,000). In addition to the stipulations outlined above, the insurance policy is to include coverage for Contractual Liability, Products-Completed Operations, Personal & Advertising Injury and will also cover injury to Consultants agents, subcontractors, invitees and guests and their personal property. The CHA is to be endorsed as an additional insured on the Consultants policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA.

3. Automobile Liability Insurance

When any motor vehicles (owned, non-owned and hired) are used in connection with the Services to be performed, the Seller shall provide Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence CSL, for bodily injury and property damage. The CHA is to be endorsed as an additional insured on the Seller's policy and such insurance will be endorsed as primary and non-contributory with any other insurance available to the CHA.

4. Excess Liability

Excess liability coverage, if applicable, is to follow form of the Primary Insurance requirements outlined above.

B. Related Requirements

The Seller shall furnish the CHA, Department of Procurement and Contracts, 60 E. Van Buren, 13th Floor., Chicago, Illinois 60605, original Certificates of Insurance evidencing the required coverage to be in force on the Effective Date of the Contract. In addition, copies of the endorsement(s) adding the CHA to Seller's policy as an additional insured are required. The required documentation must be received prior to the Seller commencing work under this Agreement. Renewal Certificates of Insurance, or such similar evidence, is to be received by the Procurement and Contracts Department prior to expiration or renewal date occurring during the term of this Agreement or extensions thereof. After notice and opportunity to cure in accordance with the terms of this Agreement, non-compliance will result in (Seller being immediately removed from the premises and the Agreement will be terminated for default. The receipt of any certificates does not constitute agreement by the CHA that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate comply with all Agreement requirements. The insurance policies shall provide for thirty (30) days prior written notice to be given to the CHA in the event coverage is substantially changed, canceled or non-renewed.

THE REQUIRED DOCUMENTATION MUST BE RECEIVED PRIOR TO THE CONTRACTOR COMMENCING WORK AT THE DESIGNATED CHA LOCATION.

If any of the required insurance is underwritten on a claims made basis, the retroactive date shall be prior to or coincident with the date of the Agreement and the Certificate of Insurance shall state the coverage is "claims made" and also the Retroactive Date. The Seller shall maintain coverage for the duration of the Agreement. Any extended reporting period premium (tail coverage) shall be paid by the Seller. The Seller shall provide to the CHA, annually, a certified copy of the insurance policies obtained pursuant hereto. It is further agreed that the Seller shall provide the CHA a thirty (30) day notice in the event of the occurrence of any of the following conditions: aggregate erosion in advance of the Retroactive Date, cancellation and/or non renewal.

The Seller shall require all subcontractors working on CHA property to carry the insurance required herein or the Seller may provide the coverage for any or all of its subcontractors, and if so, the evidence of insurance submitted shall so stipulate and adhere to the same requirements and conditions as outlined above.

The Seller expressly understands and agrees that any insurance or self-insurance programs maintained by the CHA shall apply in excess of and will not contribute with insurance provided by the Seller under the Agreement.

EXHIBIT VI

**CONTRACTOR'S AFFIDAVIT AND CONTRACTOR'S CERTIFICATIONS,
REPRESENTATIONS OF OFFERORS – NON-CONSTRUCTION CONTRACTS (HUD
FORM 5369-C) AND EQUAL OPPORTUNITY COMPLIANCE CERTIFICATE**