

THIS CONTRACT MADE THIS 10th DAY OF July, 2017 (the "Effective Date")

BETWEEN:

CITY OF HAMILTON
(hereinafter referred to as the "City")

- and -

THE EQUIPMENT SPECIALIST INC.
(hereinafter referred to as the "Vendor")

WHEREAS:

- A. At its meeting of September 10, 2014, City Council approved item 5.5 of the Public Works Committee Report 14-010, which was updated on September 19, 2016 when City Council approved item 5.3 of the Public Works Committee Report 16-015, and the negotiation of house accounts for the supply of certain equipment including Street Sweeper from identified single source suppliers and authorized the General Manager of Public Works or his designate to enter into this Contract ("Authorization");
- B. The City and the Vendor wish to enter into an agreement (the "Contract") to clarify and provide the terms under which such goods shall be provided; and

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the City and the Vendor, the City and the Vendor mutually covenant and agree as follows:

1.0 INTERPRETATION

- 1.1 Whenever used in this Contract, including the Schedules, the following words have the following meanings:

"Base Unit Price" means the unit price quoted in Schedules "A" without options, shipping or exchange rates.

"Business Day" means any day other than a Saturday, Sunday or any statutory or civic holiday observed in Hamilton, Ontario and between the

hours of 8:30 a.m. and 4:30 p.m. Hamilton time.

"Change Order" means a written formal document issued to the Vendor by the City confirming that the Vendor may proceed with the change identified in the Contemplated Change Order.

"Contemplated Change Order" is a formal written document issued to the Vendor by the City requesting that the Vendor provide confirmation that a requested change(s) to the specifications of the Equipment can be made by the Vendor and requesting that the Vendor advise of any possible pricing change that would arise from such a change. No change shall be authorized until a formal Change Order is issued by the City.

"Contract" means this contract and all schedules and documents attached hereto as it and they may be amended from time to time.

"Dual Steer" means a Street Sweeper that has two steering wheels.

"Effective Date" shall be the commencement date identified section 3 – Term or where none is indicated the date inserted above.

"Equipment" means any or all of the Street Sweeper including any parts, options, packages or accessories identified and priced in the Vendor's quote as ordered by the City.

"Non-stock Parts" means Equipment parts that are not ordered on a regular basis and are not listed in Schedule "B" but are required to minimize Equipment downtime.

"Single Steer" means a Street Sweeper that has one steering wheel.

"Stock Parts" means the Vendor Equipment parts as listed in Schedule "B".

"Total Unit Price" means the total price to be paid for each assembled unit of Equipment ordered by the City from the Vendor and shall include the Base Unit Price plus the costs for all available options selected by the City, shipping and exchange rates. All technical and operating training, testing, operating manuals, special tools required to operate or perform routine servicing, inspections, or any other requirements to license or operate the Equipment shall be included in this price.

"Vehicle" means the Street Sweepers as described in Schedule "A".

- 1.2 Capitalized words or expressions used in this Contract shall have the meanings set forth under the heading "Definitions" or as otherwise given

to such capitalized words or expressions pursuant to the terms of this Contract.

2.0 SCHEDULES

2.1 It is understood and agreed that the following Schedules are included in and form part of this Contract as if embodied herein (even if not physically attached hereto):

Schedule "A": The Vendor's Quotes dated February 3, 2017;

Schedule "B": Vendor's Parts Price List – May 8, 2017;

Schedule "C": The Sample Vehicle Birth Record and Parts Form;

Schedule "D": List of City Locations for Parts Delivery; and

Schedule "E": Warranties.

3.0 TERM

3.1 The term of this Contract (the "Initial Term") shall be one (1) year commencing on the Effective Date and ending on December 31, 2018 unless terminated or extended in accordance with the provisions of this Contract.

3.2 The City shall be entitled to extend the Contract for four (4) additional one (1) year periods (the "Extension Terms" which together with the Initial Term are the "Term"). There is no obligation on the City to extend the Contract. Any extension shall be on the same terms and conditions as the Initial Contract.

3.3 Where the City decides to extend the Contract, the City shall notify the Vendor of its intention to do so by providing to the Vendor written notice of its intention to do so no later than thirty (30) calendar days prior to the end of the Initial Term or Extension Term (as the case may be).

3.4 All terms and conditions of this Contract, including any extension of this Contract, shall remain the same throughout the duration of the Contract unless mutually agreed upon in writing by both Parties.

4.0 SCOPE OF THE CONTRACT

- 4.1 The Vendor agrees to sell, assign, transfer, grant, and convey its entire right and interest in and to deliver the Equipment to the City free and clear of all liens upon payment in full of the invoice for the Equipment.
- 4.2 The Vendor further agrees to supply all parts and service as described herein on the terms and conditions set out in this Contract.
- 4.3 The City agrees to purchase the Equipment described herein on the terms and conditions set out in this Contract.
- 4.4 The Vendor shall be responsible for providing service and Equipment in accord with the terms of this Contract and in strict conformity to it and shall only alter the service or Equipment at the request of the City. The Vendor must correct any defects in parts, service or Equipment whenever discovered by it or whenever brought to its attention.

5.0 PRICE

- 5.1 The Vendor shall supply Equipment and parts to the City at the prices set out in Schedules "A" and Schedule "B" of this Contract.
- 5.2 All prices are quoted exclusive of Harmonized Sales Tax or other applicable sales or value added taxes, imposed under the laws of the Province of Ontario and the laws of Canada applicable therein. All prices include the cost of shipping and are priced in Canadian funds.
- 5.3 The Base Unit Price and available options discounts shall be calculated based on the number of units ordered yearly and applied to the Total Unit Price, as follows:
 - 5.3.1 1- 4 units - no discount;
 - 5.3.2 5 or more units – one percent (1%) discount.

The date to verify the exchange rate shall be on the 1st of the month in which the order shall be placed.

- 5.4 Price increases or decreases for Schedules "A" (The Vendor's Quotes) will reflect the exchange rate on the 1st of the month in which a Vehicle is purchased. The Vendor shall inform the City of any increases or decreases in price prior to the City submitting a purchase order for a Vehicle.

Price increase or decreases for Schedule "B" (Vendor's Parts Price List) shall be provided by the Vendor to the City on an annual basis with the Vendor providing to the City notice of any such increases at least sixty (60) days prior to the end of the current Term of the agreement.

If the City is not notified of any price increases, prices shall remain unchanged.

During such notice period, the City may in its sole discretion negotiate the requested Schedule "A" and "B" rate increases or decreases with the Vendor. In addition to the supporting documentation provided by the Vendor, the City may consider the consumer price index and any of the factors set out in 5.5 below in such negotiations.

5.5 Any price increase contemplated in 5.4 above must be mutually agreed upon and shall only be based upon the following factors:

5.5.1 Government Mandated upgrades – for Equipment only;

5.5.2 Exchange rates shall be applicable to any parts affected by the fluctuation in the Canadian Dollar. Pricing adjustments shall be considered up to the difference of the previous year's exchange rate and the exchange rate upon request of the adjustment ninety (90) calendar days prior to the anniversary date of this agreement. The initial date to verify the exchange rate shall be the anniversary date of this agreement. *Source: Bank of Canada;*

5.5.3 Exchange rates shall be applicable to any equipment affected by the fluctuation in the Canadian Dollar. Pricing adjustments shall be considered up to the difference of the exchange rate posted on the Bank of Canada site. The date to verify the exchange rate shall be on the 1st of the month in which the order shall be placed. *Source: Bank of Canada;* and

5.5.4 Statistics Canada's consumer price index Transportation section. *Source: Statistics Canada, CANSIM, table 326-0020 and Catalogue nos. 62-001-X for the 12-month period previous, Reference link listed: <http://www.statcan.gc.ca/tables-tableaux/sum-som/I01/cst01/cpis01g-eng.htm>. If this site discontinues publishing these statistics, the City shall provide an alternate relevant link for basis of an adjustment. The Vendor will only be entitled to increase the price of the Equipment, as outlined in Schedule "A", to meet Canada's consumer price index for Equipment purchased by the City after December 1, 2017.*

- 5.6. If the Vendor can offer a reduced price due to a change in inventory or a previous year's model the City reserves the right to accept the reduced unit price.

6.0 COVENANTS AND REPRESENTATIONS OF THE VENDOR

In addition to its other responsibilities and obligations under the Contract, the Vendor expressly agrees and covenants to,

- 6.1 perform all of the services and deliver all of the goods identified in the Terms of Reference, as well as all other services identified or otherwise contemplated in the Contract Documents and provide all things necessary to perform same;
- 6.2 furnish all services, labour, goods, material, equipment, facilities and all incidentals to undertake, perform and complete its undertakings, obligations and responsibilities;
- 6.3 fully, properly, skilfully, diligently and in good faith undertake, perform and complete all of the Vendor's duties, obligations and responsibilities under the Contract;
- 6.4 employ properly qualified and experienced workers to carry out or supply all goods, services or work required under the Contract and provide them with equipment in good working condition, and access to all materials, equipment and accessories required to perform their obligations in a diligent and timely manner;
- 6.5 where the Vendor fails or neglects to commence or to proceed with the provision of services diligently and at a rate of progress that in the opinion of the City will ensure entire completion within the time provided for in the Contract or fails to meet a time requirement provided for in the Contract, the City shall be entitled to recover from the Vendor all losses, damages and expenses incurred by the City or may be incurred by the City by reason of such default by the Vendor;
- 6.6 the Vendor shall not deviate from the Contract without the prior consent of the City in writing;
- 6.7 the Vendor covenants that it shall inspect, and shall cause all of its sub-contractors to do so as well, all elements, parts, items or surfaces affecting or involving their work and inform the City immediately, in writing, of any and all deviations from the drawings and specifications approved by the City and/or from accepted good practice and standards involving or affecting their work. Without limiting the Vendor's obligations and

responsibilities under the Contract, neither the Vendor nor any of its sub-contractors shall proceed with their work if these deviations will influence or affect the appearance or quality of their work or any aspect of the Project until same are corrected by the Vendor. The Vendor shall bear the cost of any delay caused by a deviation by it or any of its sub-contractors from the Contract or any accepted practice or standard required under the Contract, without the prior consent of the City. Nothing herein shall alter or derogate from the responsibility of the vendor under the Contract; and

- 6.8 in full accordance with the Contract in a good professional manner, according to the best standards of practice of the industry, profession or trade in which the Vendor carries on business (including any applicable standards of professional conduct) and with all due diligence.

7.0 EXCESSIVE CLAIMS

- 7.1 The City may review and disallow an invoice, or reduce the amount of an invoice, submitted for hourly labour costs, or for material supplied, where the City's Procurement Manager concludes on reasonable grounds that the amount of that invoice is excessive, taking into account the time and materials that would ordinarily be required by a competent professional or tradesman to carry out the work or project to which the invoice relates.
- 7.2 Prior to disallowing or reducing an invoice under subsection (7.1), the City shall notify the Vendor in writing of its intention to review the invoice in question, and shall allow the Vendor to make written or oral representations to the City's Procurement Manager as to whether the amount invoiced is excessive. The Procurement Manager shall take those representations and all other relevant facts into account before reaching any conclusion under subsection (7.1). Any decision made by the Procurement Manager under this section is final and conclusive between the parties.
- 7.3 No invoice shall be disallowed under this section where the billing to which it relates is in strict accord with the terms of the Contract documents.

8.0 PERFORMANCE REVIEW

- 8.1 Where the City's Procurement Manager so directs, the City and the Vendor shall carry out a periodic performance review in accordance with this section concerning the provision of services by the Vendor.
- 8.2 Performance under the Contract shall be assessed by reference to the following criteria:

- 8.2.1 general responsiveness of the work relationship;
 - 8.2.2 conformity of the provision of services with the Contract documents;
 - 8.2.3 general conformity with the reasonable expectations of the City under the terms of the Contract in their entirety;
 - 8.2.4 general dependability of the goods and services supplied; and
 - 8.2.5 turn-around time on the placement of orders (to the extent applicable).
- 8.3 The respective representatives of the City and Vendor shall meet at mutually agreeable times within ten (10) Business Days of the end of each consecutive six (6) month period of the provision of services under this Contract.
- 8.4 Where a performance review is conducted under this section, each of the agreed aspects of the Vendor's performance shall be ranked by the City at one of the following standards:
- 8.4.1 Satisfactory (performance in accordance of general standard of City suppliers); or
 - 8.4.2 Unacceptable (performance well below the general standard of City suppliers).
- 8.5 At any performance review under this section, the Vendor shall be entitled to identify any aspect of the City's operations that is undermining the Vendor's ability to deliver at least a satisfactory level of performance with respect to some criteria of assessment, and where the City concludes that this is in fact the case, the ranking given to the Vendor with respect to that criteria of assessment will be adjusted accordingly.
- 8.6 Where at a performance review, one or more criteria of assessment are ranked as unacceptable,
- 8.6.1 The parties shall agree at the time of the conduct of the review or within ten (10) Business Days thereafter, on the measures to be taken by the Vendor during the ensuing contract review period to improve its performance to at least a good standard; and
 - 8.6.2 Within ten (10) Business Days of agreeing on those measures, the Vendor shall confirm in writing that the measures in question have been implemented.

- 8.7 Where the Vendor fails or refuses to implement measures as provided in subsection 8.6 above it shall be deemed to be in default under the Contract, and the City may take such remedies as provided for in the Contract Documents or are otherwise available at Law or in equity.
- 8.8 In addition to the regular performance review provided for in subsections 8.2 through 8.7 above, where in the opinion of the Procurement Manager the performance of the Vendor is not satisfactory, then in addition to such other rights and remedies to which the City may be entitled to by Law or under the terms of any of the Contract Documents, the City may,
- 8.8.1 issue an oral warning to the Vendor, identifying the non-compliance with the Specifications or other grounds of unsatisfactory performance, and requiring the Vendor to correct the same; or
- 8.8.2 issue a written notice, setting a time period for the Vendor to correct the unsatisfactory performance, and warning that the Contract shall be liable to be terminated without further warning if the unsatisfactory performance is not corrected within the time allowed;
- and until the City is satisfied that the unsatisfactory performance has been corrected, the City may holdback from any payment an amount sufficient to rectify the unsatisfactory performance until its requirements have been met.
- 8.9 Where the unsatisfactory performance of a supplier is not corrected within the time allowed under subsection 8.8 above,
- 8.9.1 the City may apply any holdback retained under that subsection towards the correction of the unsatisfactory performance and may thereupon cancel the Contract with the Vendor without further warning; and
- 8.9.2 that fact may be taken into account by the City with regard to the award of any future contract.
- 8.10 Nothing in subsections 8.8 or 8.9 shall restrict the right of the City to terminate the Contract at any time under any other provision of the Contract Documents or under any rule of Law, but any such right may be exercised by the City in its absolute discretion.

9.0 PURCHASE OF NEW EQUIPMENT

Section 9.0 applies to the purchase of new Equipment only.

9.1 PRE-BUILD AND PRE-DELIVERY MEETINGS & INSPECTIONS

- 9.1.1 A pre-build meeting between the City's Central Fleet Services Division and the Vendor or where necessary the Manufacturer shall be held at City of Hamilton - Fleet Services, 330 Wentworth Street North, Hamilton, ON prior to Vendor starting the build of Equipment, which will allow for a review of the Equipment blue prints. Such meeting shall be scheduled for a mutually agreeable date and time and will provide for a minimum notice to both parties of at least ten (10) Business Days.
- 9.1.2 The Vendor shall submit for approval to the City, two (2) sets of layout drawings, which shall be approved prior to the Vendor starting construction of the Equipment. Once approved, one set of blueprint drawings shall be retained by the City's Central Fleet Services Division and the second set shall be returned to the Vendor.
- 9.1.3 The Vendor shall permit for up to four (4) City staff to visit the Equipment Manufacturers' facility for a pre-paint meeting. During the pre-paint meeting, the City shall verify the final assembled Equipment as per the drawings previously approved and may conduct function testing of the Equipment and various components. Corrections (if any) to meet the approved drawings and to ensure proper functionality of the Equipment shall be made by the Manufacturer following that visit at no additional cost to the City.
- 9.1.4 The City reserves the right to inspect the Equipment, within the Manufacturer's normal business hours, at any other point during construction, which inspections shall be with appropriate notice to the Manufacturer or Vendor so that the Vendor may also be present during such inspections (where applicable and appropriate).
- 9.1.5 The City will only accept the final delivered Equipment once it has confirmed that it meets the specification as per the approved drawings.

9.2 ADVERTISING PROHIBITED

Advertising on the Equipment is prohibited. The Vendor shall ensure that neither its name nor any other advertising, other than the usual insignia, are applied by the Vendor on the Equipment.

9.3 ASSEMBLY

The Total Unit Price shall include all assembly. The Equipment shall be in complete working condition with all accessories installed and operational upon delivery in accordance with the optional specifications identified as appropriate for the particular Equipment at the time of it being ordered.

9.4 WARRANTY

- 9.4.1 The Vendor will honour, execute and manage the Vendors warranty from the date of acceptance of the Equipment and will be the City's sole source of contact with respect to the administration of all equipment warranty(s). The City will deal directly with the warranty provider as per the Schedule "E" of this Agreement.
- 9.4.2 The City's responsibility for warranty work shall end at notifying the Vendor. All original Vendors' component warranties shall apply.
- 9.4.3 The Vendor shall warranty any and all changes made to original Equipment to accommodate accessories, modifications, or additions to the Equipment.
- 9.4.4 All warranty repairs will be completed at City of Hamilton – Fleet Services, 330 Wentworth St. N. Hamilton, Ontario, Canada or any City facility specified at the time of the warranty repair. Alternatively, where the Equipment requires to be transported elsewhere for warranty work to be conducted, it will be the responsibility of the Vendor to pick up the Equipment and return on completion of such warranty work return the Equipment to the City of Hamilton location from which it was picked up.
- 9.4.5 The Vendor shall respond to the City within eight (8) hours of being notified of a warranty claim. Where warranty work has been identified as an immediate repair, the Vendor shall respond within two (2) hours on how the warranty work will be carried out. In the event that the time stipulated is not acceptable to the City, the warranty repairs shall be completed at a City of Hamilton facility by City staff or a third party.
- 9.4.6 The Vendor shall honour the warranty for such work in subsection 9.4.5 that is conducted by the City or a third party. The Vendor shall cover all expenses, including but not limited to parts, labour and towing that is associated with the warranty work.
- 9.4.7 Any and all service repairs that fall outside of warranty coverage, shall be conducted by the Vendor at an hourly labour rate identified in Schedule "E" of this Agreement.

9.4.8 Any parts that are not covered under warranty will be provided at the prices set out in Schedule "B". Parts not listed in Schedule "B" will be quoted at the time of purchase. The Vendor shall supply annually to the City a current most commonly ordered parts price list for use in this provision. Increases in prices set out in Schedule "B" shall be addressed in accordance with section 5 of this Contract.

9.5 SPECIAL TOOLS

Any special tools required to operate or perform routine servicing of the Equipment shall be supplied at time of delivery and are to be included in the Total Unit Price. The Vendor shall include any testing information, inspections, scaling, or any other requirements to license or operate the Equipment.

9.6 OPERATOR TRAINING

9.6.1 The Vendor shall provide a person who is fully qualified to operate and instruct on the operation, maintenance and use of the Equipment. The Vendor shall conduct an initial training session on the operation and maintenance of the Equipment. The cost of this training, if any, shall be included in the Total Unit Price.

9.6.2 Initial training shall be arranged with the City's Fleet Analyst prior to delivery of the Equipment. Initial training sessions, consisting of at least two (2) half (½) day sessions (subject to change in the event that group size warrants it), shall take place within the geographical area of the City at a site selected by the City and or any location as agreed upon between the City and Vendor. If available, the Vendor shall provide to the City an operating training video in DVD format.

9.6.3 Any mechanical training sessions will take place at The Equipment Specialist Inc.

9.7 TECHNICAL TRAINING

9.7.1 The Vendor shall provide initial training to persons identified by the City at no extra cost. The initial training costs are included in the prices quoted in Schedules "A".

9.7.2 The Vendor shall provide a person who is fully qualified to provide technical training to technicians in the repair and maintenance of the Equipment. The cost of this training, if any, shall be included in the Total Unit Price.

9.7.3 Initial training shall be arranged with the City's Fleet Analyst prior to delivery of the Equipment and shall take place within the geographical area of the City at a site selected by the City.

9.8 TECHNICAL INFORMATION

9.8.1 The Vendor shall complete in full for each unit of Equipment, a Vehicle Birth Record and Parts Form containing basic technical and vehicle information such as engine number, transmission model, fluid types, tire sizes, belt and filter part numbers, gross vehicle weight rating etc. in the form attached as Schedule "C" to this Contract.

9.8.2 A Vehicle Birth Record and Parts Form shall be provided to the City for each piece of Equipment prior to its delivery and shall be delivered to:

Attention: Fleet Analyst (as named on the Purchase Order)
City of Hamilton,
Hamilton Fleet Services,
330 Wentworth Street North,
Hamilton, Ontario
L8L 5W2

9.8.3 The Equipment will not be "Accepted" by the City without all of the above information.

9.9 MANUALS

9.9.1 Operators' manuals shall be included in the Total Unit Price.

9.9.2 An operator's manual shall be delivered with each piece of Equipment as part of the delivery acceptance.

9.10 CHANGE ORDERS

No changes identified in a Contemplated Change Order shall be implemented until and unless a Change Order has been issued to the Vendor by the City.

9.11 DELIVERY OF EQUIPMENT

9.11.1 The Vendor shall affect the delivery of the Vehicle no later than one hundred and fifty (150) calendar days for a Single Steer and no later than two hundred and ten (210) calendar days for a Dual

Steer from the date of Purchase Order. The Vendor shall affect the delivery of other Equipment no later than one (1) calendar days from the date of Purchase Order.

- 9.11.2 Only pre-arranged delivery with the City's Fleet Analyst shall be permitted. Pre-arranged delivery is necessary in order for the City to assist with unloading of equipment and parts being delivered.
- 9.11.3 All goods and Equipment are to be Freight on Board (F.O.B.) with deliveries for acceptance occurring Monday to Friday, between the hours of 9:00 a.m. and 2:00 p.m. (Hamilton time) at the City's Central Garage, 330 Wentworth Street North, Hamilton Ontario.
- 9.11.4 Vehicles shall be delivered with:
- (a) a Ministry of Transportation of Ontario (MTO) safety sticker dated to the month of the delivery;
 - (b) a New Vehicle Information Statement (NEVIS) or a Certificate of Origin; and,
 - (c) a weight slip that reflects the shipping weight of the Vehicle and its attachments.
- 9.11.5 Upon delivery of Equipment and prior to acceptance, the City shall carry out any required tests and a general inspection, to confirm that the Equipment delivered is in accordance with the agreed upon specifications and all requirements contained in this Contract.

9.12 ACCEPTANCE OF EQUIPMENT

A breach of any of the provisions under this section shall be subject to section 18 (Termination, Default and City's Remedies) of this Agreement.

- 9.12.1 Equipment acceptance, following the pre-arranged delivery of the Equipment in accordance with subsection 9.11 above, requires the Vendor to deliver all keys, documentation, special tooling (unless otherwise specified), allow for an inspection by the City and no invoicing will be approved before prior to such acceptance occurring.
- 9.12.2 The City shall have fourteen (14) Business Days from the date that the Equipment has been placed into service to advise the Vendor of any deficiencies in the Equipment that would preclude its acceptance of the Equipment.
- 9.12.3 The Vendor shall correct any deficiencies identified to it by the City. Such deficiency correction shall occur within a reasonable

time, to be agreed upon by the City and the Vendor at the time that such deficiencies are identified, and all such deficiencies shall be corrected at the Vendors expense.

9.12.4 Acceptance of seasonal Equipment purchased in an off-season (i.e. winter where the Equipment is intended for summer use) may be deferred until the Equipment can be put into use. Any corresponding obligation on the part of the Vendor to correct such deficiencies shall also be deferred to such time as the deficiencies can be identified to it by the City.

9.13 LICENSING

The Vendor shall register and obtain the required Ministry of Transportation Ontario (MTO) permit, license plate, and license plate sticker (the "Licensing") prior to the Vehicle being delivered to the City. The City shall reimburse the Vendor, as outlined in section 12, for the MTO license plate sticker fee only. The Vendor may not apply an administration fees for obtaining the Vehicle Licensing. The Vendor shall contact the City for instructions prior to obtaining the Vehicle Licensing.

9.14 CANADA MOTOR VEHICLE SAFETY ACT (CMVSA)

The Vehicle shall meet or surpass the mandatory requirements of the *Canada Motor Vehicle Safety Act* (S.C. 1993, c.16) and its Regulations in effect on the date of manufacture and the Vehicle shall bear the National Safety Mark.

10.0 PURCHASE OF PARTS AND SERVICES (OR BOTH)

Section 10.0 applies to the purchase of parts and Services (or both) only.

10.1 ORDER PLACEMENT

The City will place its orders for parts by its Central Fleet Services Division issuing to the Vendor a purchase order. The purchase order number must be included on all invoicing and documents submitted by the Vendor to the City. Failure to do so may result in either the invoice being rejected or a delay in it being processed.

10.2 ACCEPTANCE OF PARTS

10.2.1 Parts delivered to the City under this Contract shall remain the property of the Vendor until a physical inspection of the part has

been made by the City and it is accepted as being to the City's satisfaction.

10.2.2 In the event that parts supplied by the Vendor are found to be defective or not in conformity with this Contract, the City reserves the right to cancel its order upon providing written notice to the Vendor of its intention to do so. In any such instance, the City shall return the parts to the Vendor at the Vendor's expense.

10.3 STOCK AND NON-STOCK PARTS

Stock Parts:

10.3.1 The City maintains an inventory of selected Stock Parts, as listed in Appendix B, that are expected to wear during the normal operation of Equipment, which are tracked and reordered in advance. The Vendor will endeavor to deliver all parts ordered for Stock Parts inventory to the stated city location by the end of the next business day.

10.3.2 Where the Vendor is unable to fill an order for Stock Parts within the timelines set out in subsection 10.3.1 above and those parts are backordered, the Vendor will provide the fastest freight means available, including overnight air freight, at no cost to the City in order to keep the backorder time as short as possible.

Non-Stock Parts:

10.3.3 The Vendor shall endeavor to deliver to the stated City location all Non-Stock Parts that are ordered by the City to satisfy critical breakdowns within twenty-four (24) hours of ordering.

10.3.4 Where the Vendor is unable to fill an order for Non-Stock Parts within the timelines set out in subsection 10.3.3 and those parts are backordered, the Vendor will provide the fastest freight means available at no cost to the City provided that it can ensure delivery within a further twenty-four (24) hour period.

10.3.5 Where the Vendor is unable to fill an order for Non-Stock Parts within the time period provided for in subsection 10.3.4 the Vendor shall advise the City of its estimated delivery date and the City will elect at its absolute discretion, whether or not it will wait for the Vendor to ship the parts in accordance with subsection 10.3.4 above or whether it will obtain the parts from an alternate source, in which case the Equipment warranty shall not be impacted and the

City may pursue performance management for breach of this agreement by the Vendor.

Identification of type of Parts being ordered:

10.3.6 The City will identify to the Vendor at the time of ordering parts whether they are a critical part required to repair an equipment breakdown or are for general inventory purposes in order for the Vendor to respond appropriately.

10.4 SHOP SUPPLIES

10.4.1 The Unit Prices shall include all associated operating supplies, all shop supplies, miscellaneous, and/or environmental disposal charges, pick-up, and delivery of the Vehicle as required.

10.4.2 Associated operating supplies, all shop supplies and miscellaneous items are defined as those that are not physically attached to a Vehicle and include tools or supplies for tools, abrasives, cleaners, paints, lubricants and adhesives. Items are typically applied in portions that are less than the full capacity of the container they are housed in or used on multiple tasks and Vehicles.

10.4.3 The City will not pay to the Vendor any additional costs of any kind other than the Flat Rate identified for Parts under Schedule "B".

10.5 DELIVERY

10.5.1 Deliveries may be coordinated through the City's courier account, the cost of which shall be borne by the City.

10.5.2 All deliveries shall be made between the hours of 7:00 am and 3:00 pm (Hamilton time) to locations within the City (see Schedule "C" attached to this Contract). The Vendor should note that the City's Central Garage closes at 3:00 pm on Fridays from April 15 to November 15.

10.6 RETURNS

10.6.1 The City shall be entitled to return to the Vendor any part or parts that it no longer requires because of obsolescence, fleet equipment disposal or other circumstances.

10.6.2 The City will provide written notice to the Vendor of its intention to return such part(s), which notice shall include the part description, number and any other available information about part.

10.6.3 Where part(s) are returned to the Vendor within ninety (90) calendar days of their original purchase, the Vendor shall fully credit the City with the cost of the part(s) and no administrative cost (including restocking, handling and or any other cost associated with the return) shall be assessed against that cost.

10.6.4 Where part(s) are returned to the Vendor outside of the ninety (90) calendar days referenced in subsection 10.6.3 above, the Vendor shall credit the City with the cost of the part(s) less a restocking charge which shall not exceed twenty-five percent (25%) of the current part(s) price.

10.7 PRODUCT INFORMATION

10.7.1 The Vendor will be required to provide an electronic version of their parts book containing the list of thirty (30) most commonly procured parts, the Vendor and a detailed description of each part identified in its quote attached as Schedule "B" in an Excel format.

10.7.2 The Vendor shall advise the City of any part(s) that have or will be discontinued or are no longer readily available during the term of this Contract and shall identify a substitute part to be used because of the discontinuation or unavailability of the original part(s).

10.7.3 The City shall have complete discretion in deciding whether or not to accept substitute part(s) recommended by the Vendor and may request that the Vendor source alternate part(s) and if the Vendor cannot supply the alternate part(s) to the City's satisfaction.

10.7.4 Any substitute part(s) proposed to be provided by the Vendor will be sold to the city at the same price as the original part(s).

10.8 QUALITY & CONSISTENCY OF SUPPLY

10.8.1 The Vendor shall monitor consistent quality and supply with respect to all part(s) supplied to the City under this Contract. A failure to provide consistent quality and supply may result in the early termination of this Contract by the City.

10.9 WARRANTY

10.9.1 All parts must carry a minimum ninety (90) calendar day warranty. On the City's request, the Vendor shall provide the warranty information on all parts. If any parts or labour carry an additional warranty, the Vendor shall supply it to the City, to the attention of

the Supervisor, Materials Management & Fuel Control or successor position, information about that warranty, including the length of time that the warranty is applicable.

10.9.2 Any labour costs resulting from the failure of a part supplied by the Vendor will be the Vendor's responsibility. The City will not reimburse the Vendor for any direct or indirect costs incurred to replace the failure of a part.

10.10 WORK ORDERS

10.10.1 The City shall issue Work Order forms for each incident that requires a response. The City shall issue Work Orders electronically to the Vendor by way of fax or e-mail in PDF format or another format that is compatible with the City and the Vendor's information systems. The Vendor shall provide the City with a valid company e-mail address and/or fax number in order for the City to issue Work Orders electronically.

If the Vendor does not have this electronic capability, the Vendor will have a maximum of six (6) months from the date that the contract comes into effect to adhere to this requirement.

10.10.2 All Work Orders submitted by the City shall list the following information:

- Work Order number;
- location (full address / area the response is required);
- date of the request; and
- description of the Service required.

10.11 REPAIRS OUTSIDE WARRANTY

10.11.1 If repairs are required outside if the warranty the Vendor will be contacted and instructed by the City to either perform specific Services or to perform an initial assessment and report on required repairs. The Vendor will be required to respond within one (1) hour of notification from the City's Central Fleet Division Representative (via phone, fax and / or by e-mail) of a repair request. The Vendor shall be required to pick up the Equipment and/or perform the required Service at a City of Hamilton Facility. If Services to the Equipment is to be completed at the Vendor's repair facility, repair work must commence within one (1) hour of the Equipment arriving at the facility.

10.11.2 Any additional Equipment deficiencies found by the Vendor during the initial assessment of the Equipment or during the specific

Service requested by the City shall be reported to the City's authorized Central Fleet Division Representative. No additional repairs, beyond the scope of Services originally agreed upon, shall be conducted until appropriate City approval has been granted.

10.11.3 The Vendor will include the following information on the repair estimate to the City:

- vehicle unit number
- services to be performed
- price estimate (separating Hourly Labour Unit Price and Parts Prices)
- estimated time the vehicle will be out of commission

10.11.4 Vendors will provide the City written estimates electronically by fax or e-mail.

10.11.5 A Vendor who performs Work Services that have not been authorized by the City will not be paid.

10.11.6 A Work Order number and the name of the City's Central Fleet Division Representative authorizing the Services must be clearly marked on the invoice for any additional work over one-thousand (\$1,000.00) dollars.

10.11.7 Upon completion of the Services, the Vendor will notify the City's Central Fleet Division Representative and request instructions for delivery of the Equipment. Unless otherwise directed, the Equipment will be delivered to a location identified by the City's Central Fleet Division Representative within one (1) hour of Services being completed.

10.12 VEHICLE COMPONENT REPLACEMENT

Where requested by the City, all components replaced in City of Hamilton Vehicles must be set aside by the Vendor. The Vendor shall tag the replaced components indicating the fleet unit number, the date of repair, and the repair order number. Replaced components shall be kept for thirty (30) calendar days by the Vendor. The Vendor shall be subject to vehicle replacement component audits by the City which shall consist of:

- a) Monthly random spot checks during the Initial Term of the Contract; and
- b) After the Initial Term of the Contract has expired, random spot checks on an as required basis with a minimum of six (6) random spot checks per year.

Deficiencies found as a result of a spot check will be handled in accordance with the provisions of the Contract.

11.0 ENVIRONMENTAL RESPONSIBILITY AND COMPLIANCE

The City's Central Fleet Division (330 Wentworth Street North, Hamilton, Ontario) has an Environmental Management System in compliance with the ISO 14001 standard and the City itself is registered to ISO 14001:2004. As such, with respect to the production or supply of parts and Equipment delivered to the City, the Vendor warrants that it shall:

- 11.1 ensure that it disposes of any waste generated from such production and supply in accordance with all applicable local, provincial or federal statutes;
- 11.2 make every effort to participate in any programs available to it, including, but not limited to recycling, reclaiming and reconditioning programs to insure minimal impact to the environment; and
- 11.3 be fully compliant with all environmental legislation, including the City's Sewer Use By-law (where it applies) in support of the City's Environmental Management System.

12.0 INVOICING AND PAYMENT

- 12.1 In consideration of the Equipment and parts being provided by the Vendor pursuant to this Contract, the City agrees to pay the Vendor for the Equipment and parts provided hereunder.
- 12.2 Payment shall be in accordance with those prices set forth in the Vendor's quote attached as Schedule "A" or "B" to this Contract, which prices will remain in effect during the term of this Contract.
- 12.3 Upon delivery of Equipment or parts to the City, the Vendor shall issue an invoice, which invoice must be delivered to the City electronically by way of fax or e-mail in PDF format or another format that is compatible with the City's information systems. If the Vendor does not have this electronic capability, the Vendor will have a maximum of six (6) months from the date that the contract comes into effect to adhere to this requirement.
- 12.4 All invoices submitted for payment to the City shall list the following:
 - 12.4.1 the unit price for all Equipment, accessories and/or parts supplied;

- 12.4.2 where applicable, the multiple unit discount as stated on the Vendor's quote;
- 12.4.3 the Vendor's Equipment, description, accessories or part code number;
- 12.4.4 reference to the purchase order number and/or work number, where applicable, issued for the Equipment, accessories or parts supplied; and
- 12.4.5 the Vendor's name (where not otherwise obvious) and where Service is being performed the date of the service request and the City's assigned Vehicle Identification Number (not the VIN#).
- 12.5 All invoices issued by the Vendor shall contain pricing in accordance with those set out in Schedules "A" or "B" to this Contract.
- 12.6 Should an invoice be issued by the Vendor that does not correctly reflect the pricing set out in Schedules "A" or "B" to this Contract, the City will notify the Vendor of its error (by phone, fax or email) and the Vendor shall issue a new corrected invoice. The City will not accept credits and will not make a part payment of an invoice where it contains pricing errors. All incorrect invoices must be cancelled outright with a new invoice issued reflecting correct pricing.
- 12.7 The Vendor shall submit its invoices to the following address:
- City of Hamilton - Central Fleet Division
330 Wentworth Street North,
Hamilton, Ontario
L8L 5W2
- Only upon the acceptance of Equipment or parts by the Fleet Analyst will invoices be authorized for payment.
- 12.8 The City may change the above address by giving notice of such change to the Vendor in the manner prescribed in the Notice section of this Contract.
- 12.9 The City reserves up to ten (10) Business Days from the date of the receipt of the Vendor's Invoice and supporting documentation for checking, inspecting and confirming the receipt and acceptance of the Equipment or parts in accordance with this Contract.
- 12.10 The City shall endeavour to pay accounts within thirty (30) calendar days

of delivery of Equipment or parts to the City subject to any provisions set out herein with respect to acceptance of Equipment or parts, defects and incorrect invoices. In any event, no late fees, administrative charges or other fees shall be assessed to the City in the event that an invoice is not paid within the thirty (30) calendar day period.

13.0 INSURANCE

13.1 Throughout the term of the Contract (including any renewal thereof), the Vendor shall obtain and maintain at its own expense, including the cost of any applicable deductible, the following policies of insurance:

13.1.1 Commercial General Liability Insurance, written on IBC Form 2100 or its equivalent, including but not limited to bodily injury and personal injury liability, property damage, products liability, completed operations liability, owners & contractors protective liability, blanket contractual liability, premises liability, and contingent employer's liability coverage, having an inclusive limit of not less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate. Coverage shall be included for injury/loss/damage, due to pollution arising from "hostile fires".

13.1.2 Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than \$2,000,000 for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Successful Bidder for the provision of services;

13.1.3 Non-Owned Automobile Liability Insurance in standard form having an inclusive limit of not less than \$2,000,000 per occurrence or such greater amount as the City may from time to time request, in respect of vehicles not owned by the Successful Bidder, that are used or operated on its behalf for the provision of services under the Contract; and

13.1.4 Motor Truck Cargo or Transportation (All Risks) Insurance is to be provided for materials or equipment transported in the Vendor's vehicles or others hired by the Vendor from place of receipt to building sites or other storage sites.

13.2 The Vendor shall maintain Property Insurance, as may be applicable, with respect to loss or damage (including fire, theft, burglary, etc.) of its own property and property in its care, custody and control, including but not limited to its equipment, tools, stock, used in connection with the Contract.

- 13.3 All policies of insurance within the scope of subsection 13.1 shall, subject to the terms of the indemnity provisions,
- 13.3.1 be recorded as being a primary policy and shall be in a form and issued by an insurance company satisfactory to the City, that is licensed to carry on business in Ontario;
 - 13.3.2 show all values in Canadian Funds;
 - 13.3.3 be maintained continuously during the course of carrying out the Project, Work or Supply; or for such period of time as may be required after completion of the Project, Work or Supply, as deemed necessary by the City.
 - 13.3.4 provide for a deductible amount of no greater than \$10,000; or such other amount as the City, at its sole discretion, may deem appropriate.
 - 13.3.5 (except in the case of automobile liability insurance, non-owned automobile liability insurance, professional errors & omissions liability insurance, and medical malpractice liability insurance) include the City named as an additional insured, to the extent of the Vendor's obligations to the City under the Contract Documents;
 - 13.3.6 contain cross liability and severability of interest provisions, as may be applicable;
 - 13.3.7 preclude subrogation claims against the City and any other person insured under the policy; and
 - 13.3.8 provide that at least thirty (30) calendar days prior written notice (fifteen (15) calendar days, in the case of automobile liability insurance, and ten (10) calendar days in the event of non-payment of premiums) shall be given to the City by the Insurer before the Insurer or Vendor takes any steps to cancel, terminate, fail to renew, amend or otherwise change or modify the insurance or any part thereof.
- 13.4 The City reserves the right to require the Vendor to purchase such additional insurance coverage as the City's Risk Management Services Office may reasonably require. The City reserves the right to request such higher limits of insurance or otherwise alter the types of coverage requirements (taking into consideration such matters as the nature of the

work, contract value, industry standards, and availability of insurance) as the City may reasonably require from time to time.

- 13.5 Any insurance coverage acquired under the Contract shall in no manner discharge, restrict or limit the liabilities assumed by the Vendor under the Contract. The dollar limit of insurance coverage shall not be limited by the dollar amount of the Contract.
- 13.6 The Vendor shall pay all premiums on the policies as they become due provided that the City may pay premiums as they become due and deduct the amount thereof from moneys due from the City to the Vendor should the Vendor fail to do so.

14.0 PROOF OF INSURANCE AND CLAIMS PROTOCOL

- 14.1 The Vendor shall deposit with the City such evidence of its insurance as provided in or required under the provisions of the Contract,

- 14.1.1 at the time of execution of the Contract for Work (if any), or

- 14.1.2 in any event prior to commencing the Project, Work or Supply;
and

thereafter during the term of the Contract, no later than twenty (20) Business Days prior to the renewal date of each applicable policy, the Vendor shall deposit with the City's Manager Fleet an original Certificate of Insurance originally signed by an authorized insurance representative, confirming thereon relevant coverage information including but not limited to name/description of City contract, name of Insurer, name of broker, name of Insured, name of additional insureds as may be applicable, commencement and expiry dates of coverage, dollar limits of coverage, deductible levels as may be applicable, cancellation/termination provisions; or (at the City's election) a certified copy of the insurance policy or policies required under section 13.0. Certificate Holder will be addressed as the City of Hamilton, City Hall, 71 Main Street West, Hamilton, Ontario L8P 4Y5. All certificates, cancellation, nonrenewal or adverse change notices should be mailed to this address.

- 14.2 The Vendor shall not do or omit to do anything that would impair or invalidate the insurance policies.
- 14.3 Delivery to and examination or approval by the City of any certificates of insurance or policies of insurance or other evidence of insurance shall not relieve the Vendor of any of its indemnification or insurance obligations under the Contract. The City shall be under no duty either to ascertain the

existence of or to examine such certificates of insurance or policies of insurance or to advise the Vendor in the event such insurance coverage is not in compliance with the requirements set out in the Contract.

- 14.4 Claims reported to the Vendor by a third party or by the City shall be promptly investigated by the Vendor. The Vendor shall make contact with the claimant within forty-eight (48) hours of receipt of notice of a claim. The Vendor shall initiate an investigation of the claim immediately upon notice, and advise the claimant by letter of its position regarding resolution of the claim within twenty (20) Business Days of the notice. The Vendor shall include in its letter of resolution the reasons for its position. Failing acceptance of the resolution by the claimant of the proposed resolution, the Vendor agrees to report the claim to its Insurer for further review and response to the claimant. Failure to follow this procedure shall permit the City to investigate and resolve any claims and offset the resultant costs against any monies due, from time to time, under the Contract.

15.0 INDEMNIFICATION

- 15.1 The Vendor shall indemnify and shall defend and save the City, its elected officials, officers, and employees harmless from and against any claims, proceedings, fines, penalties, expenses and costs (including legal costs on a solicitor and client basis) that are incurred by, or made or instituted against, any of them or to which any of them may be liable by reason of,

15.1.1 the Vendor carrying out or failing to carry out any obligation to which it is subject, or exercising any right to which it is entitled, under the Contract except to the extent that the same are caused by the negligence or deliberate wrong-doing of the City or other person entitled to indemnification under this section, or

15.1.2 any patent, trademark, copyright infringement or other breach of any intellectual property right of any person, for which the Vendor or any subcontractor to the Vendor is responsible.

- 15.2 The right of indemnification granted to the City or other person entitled to indemnification under subsection 15.1 shall extend to any amount paid by that person in the settlement of any claim against it, and in entering into any such settlement, that person may exercise its reasonable discretion as to the amount to be paid, but that person shall serve prior notice of any intended settlement on the Vendor, at least five (5) Business Days prior to agreeing to any such settlement.

- 15.3 The City may enforce the rights of indemnity conferred on the elected officials, officers, and employees of the City under subsection 15.1 on their behalf and to the same extent as if they were parties to the Contract.
- 15.4 The rights to indemnity provided for in this section shall be deemed to be in addition to any rights with respect to insurance in favour of the City, its elected officials, officers and employees provided under the Contract Documents.
- 15.5 The rights to indemnity provided for in this section shall survive the expiration or any termination of the Contract.
- 15.6 The Vendor shall maintain for the Term of this Contract insurance coverage in accordance with the provisions of this Contract. Failure to do so shall constitute a default of this Contract.
- 15.7 Any insurance coverage acquired under the Contract shall in no manner discharge, restrict or limit the liabilities assumed by the Vendor under this Contract. The dollar limit of insurance coverage shall not be limited by the dollar amount of the Contract.

16.0 NOTICE OF DAMAGE OR LOSS

The Vendor shall give immediate notice, and written notice with complete details thereof, to the City of any accident, injury or harm to any person or any damage or loss of any property of any person at the City work site which comes to the attention of the Vendor, its officers, employees, members, servants or contractors, notwithstanding that the City may not have any obligation with respect to same.

17.0 COMPLIANCE WITH LAWS

- 17.1 Generally: The Vendor shall comply with and conform to all Federal, Provincial and Municipal Laws and regulations in performing the Contract including, without limitation, compliance with,
 - 17.1.1 Occupational Health and Safety Act, or any successor legislation, as applicable and provide to the City, upon request, reports confirming such compliance. The Vendor shall have both a written occupational health and safety policy and program to implement that policy and employees, Sub-Vendors and any other persons performing the Work shall be appropriately trained, licensed and certified, as required to perform the Work.

- 17.1.2 Human Rights Code and refrain from acts of discrimination and harassment in the same manner as would apply to employees of the City pursuant to its Code of Conduct;
- 17.1.3 Ontarians With Disabilities Act, 2001 (ODA), Accessibility For Ontarians With Disabilities Act, 2005 (AODA), O.Reg.429/07 (Accessibility Standards for Customer Service) and O.Reg.191/11 (Integrated Accessibility Standards). Prior to commencing Work, the Vendor shall provide a Statement of Acknowledgement to the City that it has read and understands the City's AODA Customer Service Standard Handbook; that it has provided the training required by said Handbook; and that it will comply with the requirements of said Handbook and applicable accessibility laws, regulations and by-laws. The City reserves the right to inspect the Vendor's training records relating to O.Reg.429/07 and O.Reg.191/11, which must describe its training policy and summarize the training, including to whom the training has been given and when the training was given. The City also reserves the right to require the Vendor to amend its training policies, practices and procedures if the City deems the training is not compliant with the requirements of O.Reg.429/07 and O.Reg.191/11.

See City of Hamilton's AODA Customer Service Standard Handbook at: www.hamilton.ca/Procurement/AODA-Customer-Service-Standard-Handbook

- 17.2 Permits, Licenses and Approvals: The Vendor shall be responsible for applying for, obtaining and maintaining, at its own cost all necessary permits, licences, consents and approvals relating to the provision of services in accordance with the Contract.
- 17.3 WSIB: The Vendor prior to commencing the Project,
- 17.3.1 shall submit to the City an original Clearance Certificate from the Ontario Workplace Safety and Insurance Board and shall provide additional certificates with respect to such coverage as often as the City deems necessary during the term of the Contract to ensure continued good standing with the Workplace Safety and Insurance Board; or
- 17.3.2 furnish proof in a form satisfactory to the City from the Workplace Safety and Insurance Board that the Vendor does not require Workplace Safety and Insurance Board insurance, but in such a case if the Vendor changes its status during the term of the Contract so that such coverage is required, the Vendor shall immediately provide the City with the certificate required under

17.3.1 above. and

17.3.3 Where a substantial portion of the work to be done under the Contract is to be carried out by a Sub-Vendor, the City may require the Vendor to furnish the same evidence as provided under 17.3.1 above.

17.4 Patents and Copyrights and Use of Documents: The Vendor shall defend, indemnify and save harmless the City from all and every claim for damages, royalties, or fees for the infringement of any patented invention or copyright occasioned by them in connection with work done or material furnished by them under the Contract. No illegal commerce or gray market Goods shall be supplied to the City, and every person supplying Goods or Goods and Services to the City shall be deemed to have warranted that they are genuine and lawfully supplied. The Contract price shall include all payments made or to be made to any third party in respect of any right, patent, design, trademark or copyright used for the purpose of the Vendor performing the Contract.

17.5 Liens to Be Discharged: The Vendor shall pay punctually all amounts owing to its suppliers in respect of all services and materials supplied by them with respect to the Contract, including any applicable interest, taxes, costs and other charges, and shall forthwith cause every lien preserved or perfected by any person with respect to the Contract or the subject matter of the Contract to be vacated or discharged, and as between the Vendor and City all costs relating thereto shall be paid by the Vendor and shall be at its expense.

18.0 **TERMINATION, DEFAULT AND CITY'S REMEDIES**

18.1 Termination on Notice:

The City may terminate this Contract at any time by delivering written notice of not less than thirty (30) calendar days.

18.2 Default:

The following shall constitute, without limitation, Acts or Events of Default ("Default") by the Vendor:

18.2.1 where the Vendor fails or neglects to commence or to proceed with the provisions of services diligently and at a rate of progress that in the opinion of the City will ensure entire completion within the time provided for in the Contract;

18.2.2 where the City determines reasonably that the Vendor has abandoned its duties with respect to the Project or failed to observe and perform any of the provisions of the Contract, the

- determination of which the City shall be the sole judge;
- 18.2.3 where the Vendor fails to comply with and maintain in good standing any insurance policies, professional certificates, permits, licenses or approvals required by the Contract or commits any acts or omissions that jeopardizes or may jeopardize these policies, permits, licenses or approvals;
 - 18.2.4 where the Vendor fails to comply with or observe or perform, or breaches or violates, any provision, term, covenant, warranty, condition, responsibility and/or obligation of the Contract;
 - 18.2.5 where the Vendor fails to comply with any Law;
 - 18.2.6 where the Vendor fails to comply with any instruction or direction of the City;
 - 18.2.7 where the Vendor defaults in the completion of the services within the time limit under the Contract or within a City-extended time limit;
 - 18.2.8 where the Vendor makes an assignment for the benefit of creditors or becomes bankrupt or insolvent, or makes a proposal to its creditors.
- 18.3 Without restricting, limiting, precluding or otherwise prejudicing any other right, privilege or remedy of the City provided in the Contract or by Law or in equity, in the event that the Vendor has committed an Act of Default or an Event of Default has occurred, the City may provide written notice ("Default Notice") to the Vendor to the effect that if the Vendor does not completely remedy the Default to the satisfaction of the City within fifteen Business Days of delivery of the Default Notice, or such other period of time as may be specifically provided for under the Contract or otherwise granted by the City in writing, in its absolute discretion, then the City may terminate the Contract and/or the services of the Vendor immediately.
- 18.4 If the Default is not completely remedied to the satisfaction of the City the City may terminate the Contract immediately and enforce any performance bond, letter of credit or other performance security provided by the Vendor (where applicable).
- 18.5 A waiver of a Default shall not extend to, or be taken in any manner whatsoever to affect the rights of the City with respect to any subsequent default, whether similar or not.
- 18.6 The remedies provided in this Contract are in addition to all other legal,

equitable or statutory remedies to which the City is otherwise entitled, as well as any other remedies stipulated in the Contract, and the taking of any one remedy shall not preclude the taking of any other remedy.

- 18.7 If the City terminates the Contract as a result of an act or event of Default, in addition to any other rights, privileges and remedies it is entitled to, the City may:
- 18.7.1 take possession of all of the Work in progress, supplies, goods, materials and complete the services by whatever means the City may deem appropriate under the circumstances;
 - 18.7.2 withhold any further payments to the Vendor until the completion of the services and the expiry of all obligations; and
 - 18.7.3 recover from the Vendor loss, damage and expense incurred by the City or may be incurred by the City by reason of the Vendor's default (which may be deducted from any monies due or becoming due to the Vendor, with any balance remaining to be paid by the Vendor to the City).
- 18.8 Unless the City otherwise agrees in writing and without limiting any other provision of this section, the failure, refusal or neglect by the Vendor to deliver the services in a diligent manner within the time specified or to promptly replace, remedy or correct the Vendor's performance or services as required pursuant to the Contract (when that originally supplied is rejected as unsatisfactory, unacceptable or deficient) shall be deemed to constitute an authority for the City to purchase or replace the services in question on the open market. The Vendor shall forthwith reimburse the City for all of its extra costs and expenses incurred to purchase or replace such services, and the City's internal costs and any delay costs.
- 18.9 Where in the opinion of the City the public interest so requires, the City may require the Vendor to furnish the Equipment below the standard of that otherwise provided for in the Contract, subject to an adjustment in price to be determined by the City.
- 19.0 CONFLICT OF INTEREST**
- 19.1 In performing the duties, providing advice and exercising all other rights and discretion associated with its role, the Vendor shall act diligently, honestly and in good faith and in the best interests of the City.
- 19.2 The Vendor shall not act in any case where there may be any conflict of interest between it (or any of its directors, officers, employees) and the City. The Vendor shall notify the City of and fully disclose to the City, in

writing and immediately upon same becoming known to the Vendor, any potential or actual conflict of interest that may arise or has arisen prior to the execution of this Contract or during the performance of its duties under the Contract.

- 19.3 If the City determines that a conflict of interest exists, the City may, at its sole discretion, suspend or defer the Work and/or the Services until the conflict is removed to the satisfaction of the City or terminate the Services of the Vendor. The Vendor shall be responsible and indemnify the City for all of the City's costs, expenses, losses and damages whatsoever which may be incurred or arise as a result of the Vendor's breach of its obligations herein including but not limited to all costs incurred to replace the Services of the Vendor, all delay costs, legal and other professional service costs, and lost revenue and opportunities.
- 19.4 This section shall apply to all sub-Vendors of the Vendor with necessary modifications.

20.0 INFORMATION TO BE KEPT CONFIDENTIAL

- 20.1 Confidentiality of records and information of the City relating to this Project must be maintained at all times. All documentation and communications, written and verbal, related to this Project and the Contract, whether provided by the City or on the City's behalf or otherwise is deemed confidential unless expressly provided otherwise. All correspondence, documentation and information provided by City and the City's Representatives to the Vendor in connection with, or arising out of this Contract remains the property of the City; must be treated as confidential; and must not be used for any purpose other than for fulfillment of this Contract. Throughout the term of the Contract and thereafter, the Vendor shall safeguard all information provided by the City and the City's Representatives and any other person at the request of the City, to the Vendor or any of its directors, officers, employees, agents and representatives.
- 20.2 This Contract is subject to the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA") as well as the City's obligations thereunder. The Vendor shall strictly comply with the requirements of such legislation as well as the *Personal Information Protection and Electronic Documents Act*, 2000, c. 5.
- 20.3 All correspondence, documentation and information provided to the City and/or the City's Representatives by the Vendor in connection with, or arising out of this Contract, will become the property of the City and a record of the City. The foregoing records and the Contract are subject to the provisions of the MFIPPA and PHIPA and the City's obligations thereunder

and may be released pursuant to such Acts.

21.0 USE OF CITY PROPERTY AND CHARACTER AND CONDUCT OF EMPLOYEES

- 21.1 Where any part of the Services is to be carried out on property owned or occupied by the City, the Vendor shall use that property and require its employees and Sub-Vendors to use that property, only for such purposes as are reasonably within the scope of the Contract; use reasonable care to avoid causing any damage to any person or thing on that property or any neighbouring property; comply, and cause its agents, directors, officers, employees and Sub-Vendors to comply, with the City's zero tolerance of violence policy.
- 21.2 The Vendor and its employees, agents, servants and Sub-Vendors shall neither bring onto nor allow the introduction or use of tobacco (except in strict compliance with the City's Smoking By-law), alcohol or illegal narcotics or controlled substances or any paraphernalia associated with any of these substances, upon any City property.

22.0 GENERAL TERMS

- 22.1 Amendment: This Contract may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each party hereto.
- 22.2 Headings: The headings used in this Contract have been inserted for convenience of reference only and do not define or limit the provisions hereof.
- 22.3 Governing Law: This Contract shall be constructed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 22.4 Successors and Assigns: This Contract shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.
- 22.5 Assignment: The Vendor shall not assign or transfer this Contract or any part thereof, without the written consent of the City, duly approved and executed.
- 22.6 Severability: If any provision or provisions of this Contract or parts thereof or the application thereof to any person or circumstances shall be found by any court to any extent to be invalid or unenforceable or to be void or illegal, such provision or provisions or parts thereof shall be deemed severable and all other provision or provisions or parts of this Contract

shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found void and/or illegal. The remainder of this Contract and its application to any person or circumstances shall not be affected thereby; and the parties hereto will negotiate in good faith to amend this Contract to implement the intentions set forth herein. Each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

22.7 Currency: All dollar amounts expressed herein shall be payable in Canadian currency.

22.8 Time: Time is of the essence hereof.

22.9 Waiver: No action or failure to act by the City shall constitute a waiver of any right or duty afforded under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed by the parties in writing.

22.10 Expiry: Neither the expiration nor the termination of the Contract shall prejudice or affect any right of action, privilege or remedy which shall have accrued or shall thereafter accrue either to the City or to the Vendor.

22.11 Indirect or Direct Interest: The Vendor expressly warrants that no elected official, officer, employee of the City shall enjoy a direct or indirect interest in this Contract or any subcontract under this Contract, nor does any such employee have a direct or indirect interest in the Vendor.

22.12 Force Majeure: Notwithstanding anything contained in this Contract, neither party shall be liable for any failure or delay on its part to perform any of the terms, conditions, covenants or obligations of this Contract to the extent that such failure or delay is the result of a cause beyond its reasonable control including such things as unavailability of material, equipment, utilities, services, an act of God, a fire, an act of the public enemy, an act of Her Majesty in her sovereign capacity, laws, a flood, a quarantine restriction, an epidemic, a labour dispute, a riot, a civil commotion, vandalism, malicious mischief or other similar cause beyond its control and not avoidable by the exercise of reasonable foresight (excluding the inability to pay for the performance of such obligation) and which occurs without the default or negligence of the party seeking relief. The party being delayed shall be entitled to extend the time for fulfillment of such obligation by a time equal to the duration of such delay and the other party shall not be entitled to any compensation for any loss or inconvenience occasioned thereby. The party delayed shall however, use its best efforts to fulfill the obligation in question as soon as reasonably possible.

Financial difficulties experienced by the Vendor or the City will not be considered Force Majeure under the Contract.

- 22.13 Address for Notices: All notices and demands provided with respect to Contract shall be in writing and shall be served either personally, or by registered mail, return receipt requested, or by facsimile as follows:

City of Hamilton:

71 Main Street West
Hamilton, Ontario L8P 4Y5
Attention: City Clerk
Office of the City Clerk
Fax No. 905-546-2095

Vendors:

Attention: Roger Vanderlinden
Position: President
Address: 400 Parkdale Ave. N., Building 3
Hamilton, Ontario L8H 5Y2
Fax: (905) 544-0576

If notice is sent by registered mail as stated above, it shall be deemed to have been received by the recipient five (5) Business Days after date of posting. If the notice is delivered by hand to the recipient it shall be deemed to have been received by the recipient on the date of delivery. If the notice is transmitted by facsimile, it shall be deemed to have been received on the day of sending if sent during regular business hours (Monday to Friday, 8:30 a.m. to 4:30 p.m.), or on the next Business Day if sent after normal business hours or if sent on a Public Holiday. "Business Day" means a day which is not a Saturday, Sunday, public holiday or day when the administrative offices of the City of Hamilton are closed.

- 22.14 Contract Non Exclusive: Unless otherwise expressly provided in the Proposal or the Contract, this Contract shall not be deemed or construed to confer upon the vendor an exclusive right to supply Devices or Services to the City nor an exclusive obligation on the Vendor to provide those items only to the City.
- 22.15 Counterparts: This Contract may be executed in any number of counterparts and delivered by electronic means, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

The balance of this page has been intentionally left blank.

IN WITNESS WHEREOF the parties have hereunto affixed their corporate seals under the hands of the proper officers duly appointed in that behalf.

THE EQUIPMENT SPECIALIST Inc.

Signed for and on behalf of The Equipment Specialist Inc. by:

Signed *R Vanderlinden*
Name: Roger Vanderlinden
Title: President
Date July 10 / 2017

c/s

"I have the authority to bind the Corporation"

CITY OF HAMILTON

Signed for and on behalf of the City of Hamilton by:

Signed *D McKinnon*
Name: Dan McKinnon
Title: General Manager, Public Works

Date Aug 18 / 2017

Approved as to content:
Tina Lasse
Public Works,
Energy, Fleet & Facilities

Approved as to content:
Tina Lasse
Name: Tina Lasse
Procurement

Approved as to form:
Amanda Dam
Legal Services - Amanda Dam

Authorized by Item 6.1 of Council Report 10-010, being Public Works Committee Report 14-010 item 5.5 adopted by the Council of the City of Hamilton on the 10th of September, 2014 and updated by Item 5.3 of Public works Committee Report 16-015 adopted by Council of the City of Hamilton on the 19th of September, 2016.

SCHEDULE "A"

The following Vendor Quotes dated February 3, 2017

See Next Page

THE EQUIPMENT SPECIALIST INC.
Sales Quotation

Date: February 3, 2017

Reference #: QTY-PBFT4-16

To:
City of Hamilton
330 Wentworth Street North
Hamilton, Ontario L8L 5W2

Attn:
Lesley Parker

**2017 Tymco Model DST-6 Regenerative Air Street Sweeper (FT4)
Mounted on 2016 Peterbilt 220 Cab Over Chassis (Dual Steer)**



Externally mounted modular dust filtration system with an efficiency rating of 99.999% on 0.5 micron particles allows for "dustless" sweeping with or without the use of water.

7.3 Cubic Yard Volumetric Capacity Hopper
Abrasion Protection Package
Air Purge
Amber High Powered Strobe Light (Sweeper)
Automatic Shutdown System
Auxiliary Engine - John Deere Diesel Turbocharged 4045T, Tier FT4 (99 HP)
Auxiliary Engine Air Restriction Indicator
Auxiliary Fuse Panel
Auxiliary Hydraulic System
Broom Assist Pick-Up Head (BAH)
CAT 29D Water Pump
Dump Switch in Cab
Dust Control (220 gal. water tanks) with Hi/Low Pressure Washdown System
Dustless Filtration System
High Output Water System
High Capacity Dust Separator
Hopper Deluge
Hopper Drain System
Hydraulic Oil Filter Restriction Indicator
Instruments in Cab (oil pressure/coolant temp gauges, tach, aux. engine hr. meter)
Pick-Up Head Cleanout System
Pick-Up Head Curtain Lifter
Rear Floodlights and Rear Mounted Alternating/Flashing Lights
Reverse Pick-Up Head Chains
Rubber Lined Blower

400 Parkdale Ave. N., Bldg. 3, Hamilton, Ontario L8H 5Y2

Phone: 905-544-9215 Fax: 905-544-0578

THE EQUIPMENT SPECIALIST INC.
Sales Quotation

Skid Bumper Extension (3")

Stainless Steel Bolt-On Blower Housing
Twin 43" Diameter Steel Gutter Brooms, Floodlights and Tilt Adjusters
Variable Speed Gutter Broom Control
Water Fill Hose and Rack

Peterbilt 220 Cab Over Chassis (33,000 lb. GVW)

Dual Steering, Tilt Column
Remote Controlled and Heated Mirrors
Paccar PX-7 Cummins ISB Diesel Engine - 220 HP @ 2600 RPM, 520 lb-ft Torque
Allison 2500 RDS-P 6 Speed Automatic Transmission
12,000 Lb Front Axle, 21,000 Lb Rear Axle (Single Speed 6.50 Ratio)
Dual Air Brakes
AM/FM Stereo, Tinted Glass, Lighter, Horn
Intermittent Wipers
Dual Gauges, Air Conditioning
High Back Air Seats
Power Windows - Left and Right
50 Gallon Fuel Tank
Backup Alarm
LED Stop/Turn/Clearance/Side Marker
LED Arrowstick
Wheel Nut Indicators
Rear Camera Monitor System
Automatic Greasing System

Total Base Bid Price (Dual Steer) \$354,703.00

Options:

Deduction: Single RHS Steer In Lieu of Dual Steering	(\$12,500.00)
Auxiliary Hand Hose w/Hyd Boom Assist (Includes Wireless Remote Control)	\$4,200.00
2 Camera Monitor System	\$3,500.00
Auto Sweep Interrupt (ASI)	\$1,500.00
Stainless Steel Hopper Assembly (Includes Dust Box, and High Capacity Dust Separator)	\$32,500.00
Stainless Steel Hopper Drain	\$2,300.00
Water Gauge in Cab	\$950.00
Belzona Lining (Includes Sweeper Component Disassembly, Reassembly and Associated Preparation/Inspection Done by TES)	\$8,300.00

Note these prices are based on the Bank of Canada USD to CAD exchange rate of 1.3004 (02-03-2017 @ noon).

SCHEDULE "B"

May 8, 2017

Vendor's Parts Price List – February 15, 2017

Description	Part Number	Quantity (Per Unit)	Price (Each)
Rod End	5010230	2	\$64.52
GB Wrist	506529	2	\$179.22
GB Hand	507370	2	\$157.71
Pre-Cleaner	505061	1	\$2,530.58
Cable W/ Handle	503908	1	\$164.88
Journal Bearing Kit	5010228	2	\$44.45
Flange Yoke Cyl GB	5010196	2	\$101.80
Seal Assy Hopper Tran.	500360	1	\$68.82
Skid Shoe	502570	2	956.94
Transition Assy	502116	1	\$884.63
PUH Inlet Seal	5017499	1	\$54.48
Hopper Door Seal	500902	1	\$424.39
Pillow Block	5014638	4	\$32.98
Drag Link	500157	2	\$146.24
Pivot Shaft RH	502583	1	\$491.78
Pivot Shaft LH	502584	1	\$480.31
Main Broom Motor	505829	1	\$1,040.91
Transfer Hose	5017353	1	\$362.74
Main Broom Spindle	5014650	1	\$119.00
Wear Pad	5015151	1	\$61.65
Vac. Manifold Screen	5017481	1	\$24.58
Pressure Inlet	507410	1	\$656.66

Note these prices are based on the Bank of Canada USD to CAD exchange rate of 1.3004 (02-03-2017 @ noon).

Description	Part Number	Quantity (Per Unit)	Price (Each)
GB Lock Valve	12910	2	\$193.56
Blast Orifice Plate	5017399	1	\$427.26
Aux. Hyd. Pump	501076	1	\$1,280.82
PUH Weldment	504217	1	\$6,992.42
Skid Shoe Seal RH	5017716	1	\$100.36
Skid Shoe Seal LH	5017498	1	\$100.36
Inlet Seal	5012761	1	\$124.74
BAH Inspection Seal	5016714	2	\$14.34
Sealed Bearing	11002	3	\$303.96
Blower Seal	5010937	1	\$20.07
Blower Belt	11221	1	\$626.55
Blower Liner Kit	KT1102	1	\$1,865.31
Hopper Suction Liner	12905	2	\$209.33
DST Clean Out Seal	506370	1	\$28.68
DST Access Door Seal	506371	1	\$44.45
Inner Gasket Seal	20545	2	\$77.42
Outer Gasket Seal	20546	2	\$57.35
Inspection Door Seal	500362	2	\$53.05
Suction/Pressure Hose	5011671	2	\$631.81
Main Broom	502566	1	\$798.89
Gutter Broom	500392	2	\$269.89
Dust Filter	12734	4	\$712.76
BAH Curtain Kit	503899	1	\$558.02
Front Curtain	5018662	2	\$159.31
Rear Slotted Curtain	55010819	1	\$130.86
Gutter Broom Motor	508603	2	\$891.57
Multi-Alarm Module	21425	1	\$477.44
BAH Pressure Switch	507146	1	\$292.49
Single Valve Assy	12962	1	\$164.88
Hopper Water Nozzle	30826	1	\$120.44
Water Strainer Gasket	5015315	1	\$4.30
Invertor - DST	12891	1	\$874.54
Separator - DST	507120	1	\$348.40
Air Solenoid - DST	22547	2	\$189.26
PUH Switch	503839	1	\$65.95
Aux Hyd Switch	503855	1	\$61.65
BAH Switch	503843	1	\$65.95
Broom Tilt Switch	503838	1	\$65.95
GB Switch	503842	1	\$65.95
Control Valve Assy	504622	1	\$531.92
Gutter Broom Tilt Cyl	505838	2	\$391.41
Gutter Broom Cyl	503960	2	\$638.02
U Joint	505793	1	\$259.51

Description	Part Number	Quantity (Per Unit)	Price (Each)
Rod End	5010230	2	\$64.52
GB Wrist	506529	2	\$179.22
GB Hand	507370	2	\$157.71
Pre-Cleaner	505061	1	\$2,530.58
Cable W/ Handle	503908	1	\$164.88
Journal Bearing Kit	5010228	2	\$44.45
Flange Yoke Cyl GB	5010196	2	\$101.80
Seal Assy Hopper Tran.	500360	1	\$68.82
Skid Shoe	502570	2	956.94
Transition Assy	502116	1	\$884.63
PUH Inlet Seal	5017499	1	\$54.48
Hopper Door Seal	500902	1	\$424.39
Pillow Block	5014638	4	\$32.98
Drag Link	500157	2	\$146.24
Pivot Shaft RH	502583	1	\$491.78
Pivot Shaft LH	502584	1	\$480.31
Main Broom Motor	505829	1	\$1,040.91
Transfer Hose	5017353	1	\$362.74
Main Broom Spindle	5014650	1	\$119.00
Wear Pad	5015151	1	\$61.65
Vac. Manifold Screen	5017481	1	\$24.58
Pressure Inlet	507410	1	\$656.66

Note these prices are based on the Bank of Canada USD to CAD exchange rate of 1.3004 (02-03-2017 @ noon).

SCHEDULE "C" Sample: Vehicle Birth Record and Parts Form

Vehicle Birth Record And Parts Information Form					
Vendors - please fill in ALL UNSHADED areas as they pertain to the equipment being supplied					
Acquisitioned by		<input type="checkbox"/> Sue Peck	<input type="checkbox"/> Lesley Parker-Bowen	<input type="checkbox"/> Randy Zangrando	
GENERAL ENTITY DESCRIPTION					
Vehicle #				Location	
Vehicle Name					
Classification				Parent Entity	
Previous Unit				Parent Dept ID	
GENERAL 2					
Replacement Cost				Delivery Date	
Life Expectancy				Budget Year	
Purchase Price				Contract #	
Vendor				Fleet RIN & Lic Renewal Date	
Invoice Number				Keys Ordered	<input type="checkbox"/> YES <input type="checkbox"/> NO
P.O. #					
CATEGORIES					
EQUIPMENT GROUP				CVOR No	SEASONAL
OMBI Category					
VEHICLE SPECIFICATION					
Make				Engine Serial # (Main)	
Model				Engine Model, Make & HP (Main)	
VIN #				Engine (Aux) Serial #	
Licence #				Engine Model (Aux)	
Year Made				Steering	
Fuel Type	<input type="checkbox"/> DSL	<input type="checkbox"/> DYED DSL	<input type="checkbox"/> UNL	Transmission Model #	
Secondary Fuel Type				Transmission Serial #	
Weight - Licenced (kg/lbs)	kg	lbs		Body Type	
GVWR (kg/lbs)	kg	lbs		Body Model #	
Weight - Tare (kg/lbs)	kg	lbs		Tires Front	
Axle Weight - Front (kg/lbs)	kg	lbs		Tires Rear	
Axle Weight Rear (kg/lbs)	kg	lbs		Brakes Front	
Axle Spread (inches)				Brakes Rear	
LUBRICATION SPECIFICATION (Types)					
	Capacity	Fluid Type		Capacity	Fluid Type
Engine Oil				Power Steering	
Transmission				Hydraulic	
Differential				Rear Differential	
Transfer Case				Fuel Tank Capacity	
FILTERS (OEM #s)					
	OEM #	QTY		OEM #	QTY
Primary Oil				Compressor	
Secondary Oil				Hydraulic Oil - Low	
Auxiliary Oil				Hydraulic Oil - High	
Primary Fuel				Coolant Conditioner	
Secondary Fuel				PCV Valve	
Fuel/Water Sep.				PCV Vent	
Transmission - Inner				Air - Inner	
Transmission - Outer				Air - Outer	
BELTS					
	OEM #	QTY		OEM #	QTY
Serpentine/Fan				Power Steering	
Air Compressor				Hydraulic Pump	
A/C Compressor				Auxiliary Pump	
WARRANTY					
Basic Coverage Expiry				Attach. Coverage Expiry	
Basic Coverage Odo				Attach. Coverage Odo	
Corrosion Coverage Expiry				Emmissions Coverage Expiry	
Corrosion Coverage Odo				Emmissions Coverage Odo	
Powertrain Coverage Expiry				Special/Additional	
Powertrain Coverage Odo					
DESCRIPTION - ADDITIONAL INFO					
Rops Cab/Body Model & Serial #				Hr Meter	<input type="checkbox"/> YES <input type="checkbox"/> NO

SCHEDULE "D"
City Locations for Parts Delivery

Locations and hours of operation, as listed in this Appendix A, may be added, deleted and or modified as required by the City of Hamilton.

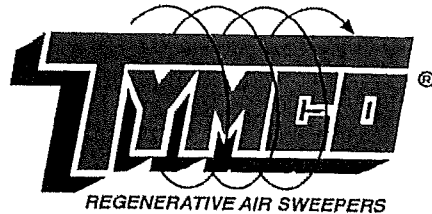
Note: Winter hours apply to Monday to Fridays and Summer hours apply to Monday to Thursdays

Location Addresses	Location Hours of Operation
Ancaster Yard - 501 Shaver Road, Ancaster, L9G 2B9 – Between Hwy. 53 Garner Rd. and Hwy. 2 Wilson St. across road from Wal-Mart, on East side.	All year: 7:00 am to 3:00 pm
BA Court Yard - 308 Rymal Rd. East, Hamilton, L9B 2L1 – Between Upper Wentworth & Upper Wellington on South side.	Winter: 7:00 am to 11:00 pm Summer: 7:00 am to 12:00 pm
Central Garage - 330 Wentworth St. North, Hamilton, L8L 5W2 – Door 18 (Formerly HSR building).	All year: 7:00 am to 11:00 pm
Chedoke Workshop - 161 Studholme Road, Hamilton, L8P 4Z2 – Left turn before the railroad bridge off of Aberdeen Ave. going west.	All year: 7:00 am to 3:00 pm
Dundas Yard - 189 King St. East, Dundas, L9H 7P8 – Follow King St. East out to Cootes Drive, along Cootes to first stoplight. Turn right to the first street which is King St, turn left. Turn right at baseball diamond and follow around to back of building.	All year: 7:00 am to 3:00 pm
Forestry - 1301 Upper Ottawa, Hamilton; L8W 3L5 – between Limeridge and Stone Church, on East side.	Winter: 7:00 am to 11:00 pm Summer: 7:00 am to 12:00 pm
Stoney Creek - 349 Jones Road, Stoney Creek, L8E 5N2 – Between Barton St. and Arvin Ave, on West side.	Winter: 7:00 am to 11:00 pm Summer: 7:00 am to 12:00 pm
Leisure Park - 752 Centre Road, Waterdown, L0R 2H0 – 1.5 km North-West of Parkside Dr., on North-East side.	All year: 7:00 am to 3:00 pm
Traffic Operations - 1375 Upper Ottawa, Hamilton, L8W 3L5 – Between Limeridge and Stone Church, on East side.	All year: 7:00 am to 3:00 pm

SCHEDULE "E"
Warranties

1. Any and all service repairs that fall outside of the warranty coverage provided for in subsection 9.4 shall be conducted by the Vendor at an hourly labour rate of \$85.00.

2. The following warranties shall form a part of this Agreement. Where there is any inconsistency in interpretation with the body of this Agreement, the body of this Agreement shall prevail.
 - (1) Tymco - Regenerative Air Sweeper Warranty;
 - (2) Peterbilt Motors Company – Medium Duty Warranty Schedule; and



**REGENERATIVE AIR SWEEPER®
WARRANTY**

TYMCO REGENERATIVE AIR SWEEPERS ("TYMCO Product") are warranted to be free from defective materials and workmanship for a period of 12 months or 1,000 hours from date of delivery and such period being hereinafter referred to as "warranty period." It is the sole responsibility of the dealer in whose territory the TYMCO Products are used, with respect to the warranty period to replace, free of charge, F.O.B. Waco, Texas, any original TYMCO part or parts which may prove to be defective due to defective workmanship or materials within the warranty period. This warranty does not apply to instances where there has been use of unauthorized parts or changes to the TYMCO Product, whether done voluntarily or by incompetence, carelessness, negligence, accident or need of attention upon the part of the purchaser, agents, employees or other parties.

This warranty shall not cover normal maintenance and adjustments, and shall not include, nor shall Seller or TYMCO be liable or responsible for, material for normal wear and usage.

TYMCO reserves the right to change the design and construction of the TYMCO Product when, in its sole discretion, any such change represents an improvement to the TYMCO Product.

All non Tymco purchased equipment and accessories are subject to that manufacturer's guarantee to the extent that such guarantee may apply and are not subject to this warranty nor to any implied warranty by TYMCO or the Seller.

THIS WARRANTY BY TYMCO AND/OR SELLER IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER TYMCO NOR SELLER SHALL BE LIABLE FOR ANY DAMAGES OF ANY KIND OR NATURE, WHETHER DIRECT OR INDIRECT, INCIDENTAL OR CONSEQUENTIAL WITH RESPECT TO THE SALE, USE OR PURCHASE OF THE TYMCO PRODUCT. FURTHER, NEITHER TYMCO NOR SELLER SHALL BE LIABLE FOR ANY DAMAGES BY REASON OF LOSS OF PRODUCTION, DOWN TIME, LOSS OF PROFITS OR LOSS OF INCOME ARISING FROM ANY REASON WHATSOEVER.

NO PERSON IS AUTHORIZED TO GIVE ANY OTHER WARRANTIES OR TO ASSUME ANY OTHER LIABILITY ON TYMCO'S BEHALF UNLESS MADE IN WRITING BY TYMCO, AND NO PERSON IS AUTHORIZED TO GIVE ANY WARRANTIES OR TO ASSUME ANY LIABILITIES ON THE SELLER'S BEHALF UNLESS MADE IN WRITING BY THE SELLER.

This warranty gives you specific legal rights, and you may also have other rights that vary from state to state.

**PETERBILT MOTORS COMPANY
Medium Duty Warranty Schedule
UNITED STATES
VEHICLE ONLY**

THIS VEHICLE WARRANTY SCHEDULE APPLIES ONLY TO ORIGINAL FACTORY EQUIPMENT AND IS SUBJECT TO THE TERMS AND LIMITATIONS IN THE ATTACHED LIMITED WARRANTY AGREEMENT. Pursuant to the terms of the attached Limited Warranty Agreement, Peterbilt Motors Company will pay warranty claims for Warrantable Failures within the following maximum limits in time or mileage, whichever shall occur first. The Warrantable Failure must be brought to the attention of an authorized Dealer within 30 days of discovery.

	MONTHS	MILES
BASIC VEHICLE This coverage applies to the basic highway vehicle, except for additional coverage and warranty exclusions below.	12	Unlimited
Major Components Eaton, Meritor & Dana Spicer front axle, beam, spindles, kingpin & kingpin bushings. Eaton, Meritor & Dana Spicer rear axle, differential assembly, axle shafts & axle housing. Manual transmissions, gears, shafts, case & bell housing. Eaton auto shift. Bendix and Mentor brakes, brackets, cam shafts, spiders and slack adjusters (excludes Air Disc Brakes). Structural components of the cab, hood (hood half fenders), and sleeper. Sheppard and TRW steering gears.	24	Unlimited
Eaton Hybrid Components Hybrid Drive Unit (HDU) with Motors and Electronic Actuator (ECU), Electronic Clutch Actuator (ECA), Power Electronic Carrier (PEC), including batteries, Inverter, Hybrid Control Module (HCM), DC/DC Converter (in Utility Application Only), Auxiliary Power Generator Kit (APG) (in Utility Application Only)	36	150,000
Extended Frame, Structure and Cab Corrosion Frame rails, gussets, cross-members and A-Braces. Cab, hood and sleeper perforation caused by corrosion from within. This warranty does not apply to corrosion caused by damage to a cab, hood or sleeper or to finish paint.	36	Unlimited
Other Coverage		
PACCAR Batteries	12	Unlimited
Gaskets and wheel seals	12	50,000
CAB, HOOD & SLEEPER PAINT	12	100,000
FRAME PAINT – Black only	12	100,000
FRAME PAINT – All colors other than black	6	50,000
FRAME PAINT – Logger Mixer, Dump, Refuse, Oil Field & Construction applications	3	25,000
Severe Service Warranty is based on a Peterbilt chassis having any of the following: unlicensed off-road registration, all wheel drive, twin steer axles, all front steer axles rated @ 21,000 lbs. GAWR or greater, single rear drive axles rated @ 26,000 lbs. GAWR or greater, Tandem rear axles rated @ 52,000 lbs GAWR or greater, or 10% or more class C and/or D usage.	12	50,000

Chassis Number(s) (17-digit VIN)

Customer Initials _____