CONTRACT NO. 654

THIS AGREEMENT made and entered into as of this day of Nov. 16, 2012 by and between, AnsaldoBreda, S.p.A. a corporation organized and existing under the laws of Italy, having its principal office at Via Argine 425, Naples, Italy 80147 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide 136 New Heavy Rail Transit Vehicles and related equipment, and professional service that shall conform to the Contract Documents; and,

WHEREAS, the Contractor has submitted a written proposal dated September 25, 2009, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein; and,

WHEREAS, the Contractor shall deliver all Heavy Rail Transit Vehicles and related equipment, and all professional services; to be delivered per the delivery schedule in the general provisions documents herein, after the Notice to Proceed (NTP). All bonding required by the contract documents shall be delivered to the County after award and prior to NTP, and all insurance as required by the contract documents. The Contractor may provide either Bonds or Letters of Credit (LOC) for performance, payment, and warranty guarantees for the Work; and,

WHEREAS, the County and the Contractor have mutually agreed to these documents, hereinafter referred to as the "Contract Documents", which are incorporated herein. Payments will be made as provided in the Payment Schedule of the Contract Documents; and,

WHEREAS, the County desires to procure from the Contractor such Work for the County, in accordance with the Contract Documents; and,

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

County hereby agrees to pay to the Contractor for said Work, the total fixed price sum of TWO

HUNDRED NINETY EIGHT MILLION EIGHT HUNDRED EIGHTY SEVEN THOUSAND TWO HUNDRED DOLLARS ($298,887,200.00), which includes the costs associated with the Bonds or Letters of Credit, insurance, and all supporting agreements for the Work.

Signed by and on behalf of Miami-Dade County:

By: _____
(Signature)

Carlos A. Gimenez, Mayor
(Name and Title)

By: _____
(Signature)

Gene Spencer / Clerk
(Name and Title)

Signed by and on behalf of (Contractor):

By: _____
(Signature)

ANDREA PED:
EXECUTIVE VICE PRESIDENT
(Name and Title)

By: _____
(Signature)

LORENZO REFFREGIER
VICE PRESIDENT
(Name and Title)

Approved as to Form and Legal Sufficiency

By: _____
(Signature)

Bruce Libhaber, Assistant County Attorney
(Name and Title)

Corporate Seal

Corporate Seal

GENERAL PROVISIONS FOR MIAMI-DADE COUNTY

For The Procurement of New Metrorail Vehicles RFP 654

Submitted by: Miami-Dade County Department of Procurement Management

CONFORMED NOVEMBER 2010

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SECTION GP1 – ABBREVIATIONS AND DEFINITIONS

In determining the suitability of subsystems for the Project, the County will apply the principles of FAR subpart 1-1.11 "Qualified Products," as applicable.

GP1.1 GENERAL

Whenever the following abbreviations and terms appear or are referred to in the Contract Documents, they shall carry the definitions listed below unless otherwise expressly stated in the Contract Documents.

GP1.2 ABBREVIATIONS

ANSI	American National Standards Institute
APTA	American Public Transit Association
ASQC	American Society for Quality Control
ATO	Automatic Train Operation
ATP	Automatic Train Protection
CDRL	Contract Documents Requirements List
CFR	Code of Federal Regulations
CO	Contracting Officer
COR	Contracting Officer Representative
DBE	Disadvantaged Business Enterprise
DOL	United States Department of Labor
DOT	United States Department of Transportation
DPM	Department of Procurement Management
EEO	Equal Employment Opportunity
EPA	U.S. Environmental Protection Agency

FDOT	Florida Department of Transportation
FTA	Federal Transit Administration, an agency within the United States Department of Transportation, formerly known as UMTA
HRT	Heavy Rail Transit
IPSIG	Independent Private Sector Inspector General
MDC	Miami-Dade County
MDT	Miami-Dade Transit
MIS	Management Information System
MSDS	Material Safety Data Sheet
NEMA	National Electrical Manufacturers' Association
NTP	Notice to Proceed
OSHA	Occupational Safety and Health Administration, U.S. Department of Labor
QAP	Quality Assurance Plan
TPN	Technical Provisions for the New Heavy Rail Vehicles
UL	Underwriters Laboratories, Inc.
UMTA	Urban Mass Transportation Administration, an agency within the United States Department of Transportation, presently known as FTA
USC	United States Code

GP1.3 TERMS

ACCEPTANCE – Formal written acceptance by the Miami-Dade County that the Work or a portion thereof has been completed according to the specifications and requirements of the Contract Documents.

ACCEPTANCE CERTIFICATE – The written document issued by Miami-Dade County to certify acceptance of all the Work at administrative close-out.

AGREEMENT (CONTRACT) – The negotiated, written agreement executed by

Miami-Dade County and the Contractor, in conformance with the Contract Documents, for the performance of the Work which incorporates and includes the remaining Contract Documents.

APPROVED – The endorsement or authorization by Miami-Dade County or the Engineer of a proposal, plan, procedure, action, document, report, specification, design, or any parts thereof, undertaken, promulgated, or developed by the Contractor in accordance with the requirements of the Contract Documents.

AWARD – The issuance of a Contract by the County.

BONDS – The executed Performance Bond and the Warranty Bond required to be supplied by the Contractor pursuant to the Contract Documents.

CALENDAR DAY – Each and every day shown on the calendar.

CERTIFICATE OF ACCEPTANCE OF FINAL INSPECTION – Certificate issued by Miami-Dade County certifying that a Vehicle or other portion of the Work has been substantially completed, including the completion of all required inspections, tests, Safety Certification, and rework as required by the Contract Documents, but subject to satisfactory completion of any outstanding Work items, the warranty, and reliability requirements of the Contract Documents. The Certificate of Acceptance of Final Inspection will be automatically provided to the Contractor if the vehicle is placed in revenue service. In such case, the Contractor shall still be responsible for any outstanding Work items, including the warranty and reliability requirements of the Contract Documents.

CERTIFICATE OF COMPLIANCE – Certificate issued by a Supplier, manufacturer or producer certifying that systems, subsystems, materials, parts or equipment furnished complies with the Contract Documents.

CERTIFICATE OF INSURANCE – Certificate for the required insurance specified by the Contract Documents.

CHANGE NOTICE – A written request issued by Miami-Dade County to the Contractor, requesting the scope, cost and schedule impact of a potential change to the Work.

CHANGE ORDER – A written order issued by Miami-Dade County to the Contractor, delineating changes in the Contract Documents and establishing the basis of payment and time adjustments, if any, for the portion of the Work affected by the changes.

COMPLETED WORK – The completion of all work on a contract item or milestone for which payment will include all material, equipment, labor, overhead and work incidental thereto, unless otherwise specified.

CONTRACT – See Agreement.

CONTRACT DATA REQUIREMENTS LIST (CDRL) – A matrix listing data, such as drawings, catalogs, reports, notices, and samples, required to be submitted by the Contractor by the Contract Documents. The matrix also establishes when and how often such submittals and revised submittals are required to be provided by the Contractor. In these Contract Documents, CDRLs are identified and tabulated at the beginning of each section and are called out within the specific text as (CDRL) in parentheses. A summary listing of all CDRLs is located in TPN23.

CONTRACT DOCUMENTS – The Advertisement, the RFP, the request for BAFO and any addendum(a) issued, the executed Agreement, the executed Contract Forms, the General Provisions, the Technical Provisions, the Contract Drawings, the Notice to Proceed, the Bonds, Change Orders, all required insurance and the Contractor's BAFO, all Letters of Credit, and the Proposal upon which the Agreement is awarded.

CONTRACT DRAWINGS – All diagrams, drawings and illustrations in the Contract Documents which describe or show the locations, character, dimensions and details of the Work.

CONTRACT ITEM – An item of Work for which a price is provided in the Contract Documents.

CONTRACT SPECIFICATIONS (SPECIFICATIONS) – The directions, provisions, and requirements contained, or referenced, in the General Provisions and Technical Provisions prescribing the manner of performing the Work, or to the quantities and qualities of materials to be furnished or incorporated into the Work.

CONTRACT SUM – The total amount which Miami-Dade County agrees to pay the Contractor and the Contractor agrees to accept from Miami-Dade County as full payment for the Work and as a complete discharge of Miami-Dade County's liability to make payment to the Contractor for the Contractor's performance of the Work which sum is set forth in the Agreement, subject to additions and deductions as provided in the Contract Documents, including modifications due to the exercise of options or modification to the Work.

CONTRACT TIME (TIME OF COMPLETION) – The total number of calendar days set forth in the Contract Documents for completion of the Work from Notice to Proceed, unless otherwise specified in the Contract Documents, as may be amended.

CONTRACTING OFFICER (DPM) – The individual designated by the

Department of Procurement Management Director, or designee, to perform Contract Management activities for the Contract.

CONTRACTOR – The individual, firm, partnership, corporation, joint venture or any combination thereof, who, as an independent contractor, has entered into the Agreement with the County.

COUNTY – Miami-Dade County (The County), as represented by the County Manager or its authorized designee. The term Owner as used in this Agreement shall exclude the regulatory departments of Planning, Development and Regulation (Building and Zoning); Department of Environmental Resources Management (DERM); Public Works (PW); the Fire Department (MDFRD) and Water & Sewer (WASD) or their successors.

CRITICAL PATH – In a schedule, a sequence of stages toward the achievement of a final task that allows for all other tasks that must be achieved on the way to achieving the final task.

DATA – Written presentations, including but not limited to, calculations and catalog cuts, prepared by the Contractor, its Subcontractors, or Suppliers in response to requests from Miami-Dade County, Miami-Dade Transit or the Engineer or to otherwise meet the requirements of the Contract Documents.

DAY(S) – Shall mean calendar day(s), unless otherwise designated.

DEFECT(S) / DEFECTIVE – A condition which does not meet the requirements of the Contract Documents; or causes a Vehicle or a portion of the Work to cease operating or operate in a degraded mode; or inflicts damage or harm on any other portion of a Vehicle or the Work.

DELIVERY (DELIVER OR DELIVERED) FOR ACCEPTANCE TESTING – The delivery of a New Metrorail Vehicle by the Contractor to Miami-Dade County's property for the performance of Acceptance Testing by the Contractor pursuant to TPN17, with all previously scheduled portions of the Work having been fully and properly completed by the Contractor for the Vehicle.

DRAWING – Any drawing or similar data which is: required to be submitted or prepared pursuant to the Contract Documents; prepared by the Contractor or others to supplement, detail, or describe the Work; and/or is a Contract Drawing, Engineering Design Drawing, and/or Manufacturing Drawing. These may also include, but are not limited to, electrical schematics and wiring diagrams, fabrication, erection, layout, assembly installation, test, maintenance, and repair drawings as well as instructions and manufacturer's catalog information.

ENGINEER – The County or its authorized representative acting within the

scope of the duties assigned to it, in accordance with GP6.1.

ENGINEERING DESIGN DRAWINGS – Drawings prepared by the Contractor, its Subcontractors or Suppliers to supplement or detail the Contract Documents, and which are required by the Contract Documents or drawings prepared by the Contractor to detail work not shown on the Contract Documents which will be incorporated in and become an integral part of the Work.

EXISTING HRV (Metrorail) – A Heavy Rail Metrorail Vehicle in the County's existing Metrorail Fleet.

FAILURE – Any detected inability of material or equipment, or any portion thereof, to function or perform in accordance with the Contract Documents.

FIELD ORDER – A written notice issued to the Contractor by the Engineer specifying an action required by the Contract Documents.

GENERAL PROVISIONS – Articles GP1 through GP9 inclusive.

GOVERNMENT – The Government of the United States of America.

INSPECTOR – The Engineer's or Miami-Dade County's authorized representative assigned to conduct inspections of the Work.

JOINT VENTURE – A legal association of entities formed for the purpose of proposing on the RFP.

LETTER OF CREDIT – The Performance, Payment, and Warranty financial security instruments issued by a financial institution with offices and authorized to do business in the State of Florida.

MANUFACTURING DRAWINGS – Drawings and instructions prepared by the Contractor, its Subcontractors or Suppliers to be used during manufacturing or assembly for purposes of describing manufacturing or assembly techniques.

MIAMI-DADE'S METRORAIL FLEET – Miami-Dade County's existing fleet of one–hundred–thirty–six (136) Budd Company Heavy Rail Vehicles.

MONTH – Calendar month.

NEW METRORAIL VEHICLES – The New Metrorail Vehicles whose configuration and performance are described in the Contract Documents and which are to be newly manufactured, assembled and delivered to Miami-Dade County by the Contractor as required by the Contract Documents.

NOTICE TO PROCEED (NTP) – A written notice from Miami-Dade County to

the Contractor directing the Contractor to proceed with the Work or alternatively, a portion thereof.

OTHERS – Individuals, partnerships, governmental bodies, corporate entities or agencies whose activities, services, facilities or equipment interfaces with or are impacted by the Work.

PAYMENT BOND or LETTER OF CREDIT – A form of surety that is used to insure timely payment to all of the Contractor's Subcontractors.

PERFORMANCE BOND or LETTER OF CREDIT – The Miami-Dade County approved form of security furnished by the Contractor and its Surety as a guaranty on the part of the Contractor to execute and complete the Work as required by the Contract Documents.

PRE–PRODUCTION (PILOT) VEHICLES – The first three Metrorail Married Pairs being procured under this Agreement.

PROCUREMENT – The furnishing of all the items, material, equipment, data, design, services, management, labor, and incidentals, specified or otherwise necessary for timely and properly designing, manufacturing, delivering and testing the New Metrorail Vehicles or otherwise completing the Work.

PROJECT – See Work.

PROJECT MANAGER – The Contractor's authorized representative in charge of the Work.

PROJECT RECORD DOCUMENTS – A copy of all Contract Drawings, Engineering Design Drawings, Manufacturing Drawings and data to be maintained by the Contractor during the Work.

PROJECT SCHEDULE – The schedule for the Work as prepared and maintained in accordance with the Contract Documents, as approved by the County.

PROPOSAL – The written submission, in response to the County request for a proposal, by a Proposer for the Work, properly signed, dated and completed and as may be amended or modified through a Best and Final Offer or direct negotiations.

PROPOSER – The individual, firm, partnership, corporation, joint venture or other legal entity which submits a Proposal to Miami-Dade County, in response to the RFP seeking to be selected as the Contractor.

PROVIDED – The Contractor's work is "provided" when it is timely furnished by

the Contractor and completed in accordance with the Contract Documents.
SAMPLES – Physical examples which illustrate material, equipment or workmanship and establish standards by which the Work will be judged.

REVENUE SERVICE – The utilization of a Vehicle, Replacement Part, spare part, or other portion of the Work by MDT in the collection of fares from Miami-Dade's customers.

SERVICE–PROVEN DESIGN – Refers to the design of any component, system or subsystem that has a proven history, as required by the Contract Documents, of successful operation in Service similar to that of the Metrorail System as defined in the Request for Proposal, Section 3.4.2.

SHOP DRAWINGS – See Engineering Design Drawings.

SPECIFICATIONS – See Contract Specifications.

STATE – The State of Florida.

SUBCONTRACTOR – Any individual, partnership, firm, corporation, joint venture or any combination thereof, who performs or installs, totally or partially, a Contract Item, or who performs other services for the Contractor as required to fulfill the Work, by virtue of an agreement with the Contractor.

SUPPLIER – Any individual, partnership, firm, corporation, joint venture or any combination thereof, who provides material or equipment, but not labor or services, to the Contractor and who is responsible to the Contractor by virtue of an agreement with the Contractor.

SURETY – A corporate body which is bound with and to the Contractor for the satisfactory performance of the Work by the Contractor, and for the remedy of any defects in the Work, as provided in the Bonds or Letters of Credit.

TECHNICAL PROVISIONS (TECHNICAL SPECIFICATIONS) – Specific requirements setting forth the descriptions of elements of the Work to be performed or supplied, the quality of required labor, material and equipment, and the method of measurement and payment for the identified elements of the Work.

TIME OF COMPLETION – See Contract Time.

VEHICLE(S) – New Metrorail Heavy Rail Vehicle(s).

WARRANTY BOND or LETTER OF CREDIT – The Miami-Dade County approved form of security furnished by the Contractor and its Surety as a guaranty on the part of the Contractor to execute and complete the Warranty as

required by the Contract Documents.
WEEK – A period of seven consecutive calendar days.

WORK (PROJECT) – All designs, engineering, manufacturing, operations, services, materials, equipment, parts and labor required to properly, timely and to the satisfaction of Miami-Dade County: provide the completed New Metrorail Vehicles; provide all other items of work indicated or referenced in the Contract Documents, including all alterations, amendments or extensions thereto made by Change Order; successfully complete all required tests and all reliability periods; remedy all defects which occur during, at least, the five (5) year warranty period for each of the New Metrorail Vehicle as set forth in GP5.2.4; and complete all necessary repairs and modifications resulting from the tests, the reliability periods and warranties as required by the Contract Documents. Nothing herein shall affect the period or duration of the Warranty Bond or Letter of Credit or the warranties set forth in or required by the Contract Documents.

WORKSITE – All areas obtained or used by the Contractor for use in connection with the Work, and any Miami-Dade County property authorized for use by the Contractor in the performance of the Work.

GP1.4 ADDITIONAL DEFINITIONS

GP1.4.1 Wherever in the Contract Documents the words "directed", "required", "ordered", "designated", "prescribed", or similar words are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription" of Miami-Dade County or the Engineer is intended unless otherwise expressly stated. Similarly, the words "approved", "satisfactory", or similar words, shall mean "approved by", or "satisfactory to" Miami-Dade County or the Engineer, unless otherwise expressly stated.

GP1.4.2 Where "as shown", "as indicated", "as detailed", or similar words are used, it shall be understood that the reference is made to the Contract Documents unless stated otherwise.

GP1.5 REFERENCED STANDARDS

GP1.5.1 Whenever the Contract Documents reference a standard, said standard shall be, unless otherwise indicated, the latest version or edition in effect on the date on which the Notice to Proceed is issued.

GP1.5.2 In the case of a conflict between referenced standards and the Contract Documents, the Contract Documents shall govern.

GP1.6 RULES OF INTERPRETATION

GP1.6.1 The titles, headings, captions and arrangements used in these General Provisions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

END OF SECTION

SECTION GP2 – PROPOSAL REQUIREMENTS AND CONDITIONS

GP2.1 FEDERAL GRANT REQUIREMENTS

The Work may be financed, in part, through an FTA Capital Grant contract between Miami-Dade County and the Federal Government; and is subject to the requirements of various federal authorities such as the DOL and DOT. Any action taken by Miami-Dade County in compliance with such agreements or requirements shall not be cause for any claim against Miami-Dade County or FTA by the Contractor.

GP2.2 FLORIDA DEPARTMENT OF TRANSPORTATION

The Work may be financed, in part, through a grant to Miami-Dade County from FDOT; and is subject to the requirements of FDOT and other State authorities. Any action taken by Miami-Dade County in compliance with such grant or requirements shall not be cause for any claim against Miami-Dade County, FDOT, the State, or any local government by the Contractor.

GP2.3 EXAMINATION OF MIAMI-DADE'S FACILITIES

The Contractor shall carefully examine and become familiar with the Contract Documents, Miami-Dade Transit's facilities, including the Metrorail System, the Metrorail Fleet, and any other conditions or facilities potentially affecting the Work. By submitting a Proposal, the Proposer acknowledges that it has carefully examined the RFP, the Contract Documents, and the County's facilities, including the HRT System and the County's HRV (Metrorail) Fleet, and has satisfied itself as to the contractual and technical requirements of the Work and all conditions potentially affecting the Work. Any failure by the Contractor to carefully and completely review the RFP, the Contract Documents, Miami-Dade Transit's facilities, including the Metrorail System and Miami-Dade Transit's Metrorail Fleet, and any other conditions or facilities potentially affecting the Work, or to acquaint itself with all available information, shall not relieve it from the responsibility for estimating properly the difficulty or cost of successfully performing the Work. Miami-Dade County assumes no responsibility for any conclusions or interpretations made by the Proposer on the basis of any representations made, or information provided by, Miami-Dade County, its Engineer or any of the County's or the Engineer's directors, officers, employees or agents prior to the execution of the Agreement. Any data or information provided to the Proposer is provided as a convenience only.

If requested, the County will make every effort to provide the most recent, complete and accurate information. The County will disclose if it believes that any provided information is incomplete or contains potential inaccuracies.

GP2.4 BUY AMERICA REQUIREMENTS

GP2.4.1 The Agreement and the Work are subject to the provisions of Section 165 of the Surface Transportation Assistance Act of 1982, and 49 CFR Part 661. Further, the Agreement and the Work are subject to the requirements of the Surface Transportation and Uniform Relocation Assistance Act of 1987 and any implementing regulations issued thereunder.

GP2.4.2 The Contractor shall have submitted a completed Buy America Certificate as required by the RFP (Appendix G).

GP2.4.3 The Contractor understands and agrees that, pursuant to 49 CFR Part 661.13, whether or not it certifies that it will comply with the applicable Buy America requirements, it is bound by its original certifications and is not permitted to change its certifications for the duration of the Contract. In addition, if the Contractor certifies that it will comply with the applicable Buy America requirements, the Contractor understands and agrees that it is not eligible for a waiver of those requirements.

GP2.4.4 The Contractor shall fully cooperate with Miami-Dade County in the performance of both a pre-award and a post–delivery audit by Miami-Dade County or its representative to ensure that the Work fully complies with the applicable requirements of Buy America; 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663 and any revisions thereto.

END OF SECTION

SECTION GP3 – AWARD AND EXECUTION OF AGREEMENT

GP3.1 AWARD OF AGREEMENT

GP3.1.1 The County, in its sole discretion, reserves the right to reject any and all Proposals and to waive informalities and irregularities in any Proposals, other provisions in the Contract Documents notwithstanding.

GP3.1.2 If the Proposer fails to submit all the requested information for the County's evaluation, the Proposal submitted by said Proposer will not be evaluated by the County.

GP3.1.3 The Agreement shall not be in effect until approved by the County.

GP3.2 CANCELLATION OF AWARD

Miami-Dade County reserves the right to cancel the award of the Agreement before the issuance of the Notice to Proceed when Miami-Dade County deems such cancellation to be in its best interests. In no event, will Miami-Dade County or the Engineer be liable, in any way, for the cancellation of the award or any expenses, costs or damages resulting therefrom with the exception of costs incurred for cancellation of bonding. The Contractor assumes sole risk and responsibility for any expenses or costs it incurs prior to the issuance of the Notice to Proceed and shall not commence the performance of the Work until receipt of the Notice to Proceed, which shall take place no later than 60 days after Contract Award.

GP3.3 CONTRACT BONDS/LETTERS OF CREDIT (LOC)

GP3.3.1 The Contractor shall furnish the following Bond(s)/LOC(s) at its own expense. All Bonds/LOC(s) shall be issued in accordance with the scope of work as modified by the exercising of options by the County.

(A) Performance Bond/LOC – In amounts as follows:

Time Period	Bond Amount
NTP through completion of the Final Design Review	12% of Contract Sum
Completion of the Final Design Review through Delivery of three (3) Pilot Married Pairs and completion of testing	25% of Contract Sum

Time Period	Bond Amount
Delivery of three (3) Pilot Married Pairs through issuance of the Certificate of Acceptance of Final Inspection for 68th Married Pair	30% of Contract Sum (To be reduced by 1/68 upon acceptance of each Married Pair)

The Performance Bond/LOC shall be accessible such that the County may, at its convenience, withdraw funds from the Bond/LOC in the event the Contractor fails to execute its performance obligations in a timely manner. The Performance Bond/LOC does not apply to the warranty obligations under the Contract.

(B) Warranty Bond/LOC – No Warranty Bond/LOC is required for this Contract.

(C) Payment Bond/LOC – In the amount of 2% of the Contract Value. The Payment Bond/LOC shall remain in effect from NTP until 120 days after issuance of the Certificate of Acceptance of Final Inspection for the final Married Pair.

GP3.3.2 Surety Bond Qualifications: The following specifications shall apply to bid, performance, payment, maintenance, and all other types of bonds.

(A) All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A. M. Best Company, Oldwick, New Jersey:

Bond Amount			Best Rating	
$500,001	to	$1,500,000	B	V
$1,500,001	to	$2,500,000	A	VI
$2,500,001	to	$5,000,000	A	VII
$5,000,001	to	$10,000,000	A	VIII
Over		$10,000,000	A	IX

On bond amounts of $500,000 or less, the provisions of Section 287.0935, Florida Statutes (1991) shall be in

effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

1. The Surety Company is licensed to do business in the state of Florida;

2. The Surety Company holds a certificate of authority authorizing it to write surety bonds in the state;

3. The Surety Company has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued;

4. The Surety Company is otherwise in compliance with the provisions of the Florida Insurance Code; and

5. The Surety Company holds a currently valid certificate of authority issued by the United States Department of the Treasury under ss. 31 U.S.C. 9304-9308.

(B) Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

(C) The attorney in fact or other officer who signs a contract bond for a surety company must file with such bond a certified copy of his power of attorney authorizing him to do so. The Contract bond must be countersigned by the surety's resident Florida agent.

(D) Bonds shall be so worded as to make the Contract a part thereof and shall contain a clause providing the right of suit or action for those benefits said bond shall be executed as disclosed by the text of said Bonds and Contract to the same extent as if he or they were the obligee or obligee therein specifically mentioned, and all such persons shall be held or deemed to the obligee thereof.

The Contractor may, in lieu of a surety performance bond and surety payment bond submit two (2) cash bonds or bank letters of credit, conditioned upon the faithful performance of the work in strict accordance with this Contract and with the Plans,

Specifications and the completion of the same free from all liens and within the time limit herein specified.

The Contractor shall promptly make payments in accordance with County Ordinance 94.40 (Prompt Payment) to all subcontractors, or any other entity, supplying Contractor with labor, materials, or supplies, used directly or indirectly by Contractor in the prosecution of the work provided for in the Contract Documents, and in the times and manner prescribed in the Contract Documents; and

If the Contractor fails to make payments to any subcontractor, or any other entity, supplying Contractor with labor, materials, or supplies, used directly or indirectly by Contractor in the prosecution of the work provided for in the Contract Documents, and in the times and manner prescribed in the Contract Documents, then subcontractor, or any other entity shall have a right of action against the Contractor and the Surety for the amount it is due. Such action shall not involve the County in any expense. The Contractor shall pay the County for all losses, damages, costs, and attorney's fees, including appellate proceedings that the County sustains because of a failure by Contractor to make any such payments.

A subcontractor, or any other entity as identified above, except a laborer, who is not in privity with the Contractor and who has not received timely payment for its labor, materials, or supplies may, within 60 days after performance of the labor or after complete delivery of the materials or supplies, and issuance of a properly submitted invoice, deliver to the Contractor and to the Surety written claim advising of the performance of the labor or delivery of the materials or supplies and of the nonpayment. No action for labor, materials or supplies may be instituted against the Contractor or the Surety unless notice has been given. No action shall be instituted against the Contractor or the Surety on the bond after 120 days from the performance of the labor or completion of delivery of the materials or supplies. A claimant may not waive in advance its right to bring an action under the bond against the Surety.

GP3.3.3 The Bonds shall be in the form attached hereto as Exhibit 1 (Performance Bond), Exhibit 2 (Payment Bond), and Exhibit 3 (Warranty Bond) or on forms otherwise provided and approved by the County and shall be executed by a Surety or Sureties acceptable to the County, authorized to issue surety bonds in the State of Florida.

GP3.3.4 Provisions of the Bonds shall not limit, in any way, any liability of the Contractor to the County, unless otherwise provided by law or this Contract.

GP3.3.5 All alterations, extensions of time, extra and additional work, and other changes to the Contract Documents may be made without securing the consent of the Surety or Sureties for the Bonds. Such changes shall not, however, alter the Surety's or Sureties' responsibility relating to the Bonds.

GP3.3.6 The Contractor may substitute Letters of Credit for the Performance, Warranty, and/or Payment Bond(s). Letter(s) of Credit shall be in the form attached hereto as Exhibit 4 or on forms otherwise approved by Miami-Dade County. Said LOCs shall be drawn on a financial institution, authorized to do business in the State of Florida, and shall be issued by a financial institution acceptable to the County. Provisions of the LOCs shall not limit, in any way, any liability of the Contractor to Miami-Dade County in the performance of the Work.

GP3.4 ADDITIONAL FINANCIAL SECURITY

If any financial institution securing the Bonds/LOC furnished in connection with the Agreement becomes unacceptable to Miami-Dade County, the Contractor shall promptly furnish additional security acceptable to Miami-Dade County to protect its interests of Miami-Dade County and of persons or firms supplying labor or materials in the execution of the Work. The financial institution shall be deemed acceptable by Miami-Dade County so long as it continues to meet the criteria set forth in GP3.3.2.

GP3.5 EXECUTION OF AGREEMENT

After Award, but prior to NTP, the Contractor shall deliver the following, properly executed items: the Agreement; the Bonds and/or Letters of Credit; the Buy America Audit and certificate; and certificates of insurance to Miami-Dade County as directed by Miami-Dade County. Miami-Dade County will execute all copies of the Agreement, approve: insurance, bonding, and all licenses and escrow agreements, and will give one original of all executed forms to the Contractor.

GP3.6 FAILURE TO EXECUTE AGREEMENT

Failure of the Contractor to submit Bonds or Letters of Credit; the Buy America Audit and certificate; licensing agreements, and certificates of insurance to

Miami-Dade County, as provided herein, shall be just cause for the County not to issue a Notice to Proceed.

GP3.7 INSURANCE

Upon County's notification, the Contractor shall, furnish to Miami-Dade County, Department of Procurement Management, 111 N.W. 1st Street, 13th Floor, Miami, Florida 33128-1974, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

2. Commercial General Liability Insurance on a comprehensive basis including products and completed operations in an amount not less than $5,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.

3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Work, in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County may suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

GP3.8 INDEMNIFICATION

The Contractor shall, to the extent of the value of the Contract, indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages from any third-party, including attorney's fees, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Contract by the Contractor or its employees, agents, servants, partners principals or subcontractors, but excepting liability, losses or damages to the extent caused by the negligence of the County and its officers, employees, agents and instrumentalities. The

Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. It is explicitly understood and agreed to by the parties of this Contract that the County may recover from the Contractor for any amount, not to exceed the total value of the Contract, special, indirect, or consequential damages for costs of capital or construction caused by the Contractor's breach of this Contract and/or negligence and/or willful misconduct. Any funds provided by any insurance company or other third party which is paid on behalf of the Contractor shall be deemed to be funds recovered from the Contractor.

GP3.9 CONTRACT DOCUMENTS

Miami-Dade County will furnish the Contractor, for its use, the following Contract Documents:

(A) One original copy of the executed Contract Forms;

(B) Three (3) sets of the Technical Provisions and General Provisions; and

(C) Three (3) sets of any related addenda.

The Contractor shall maintain the applicable portions of the Contract Documents at all locations where the Work is being performed.

END OF SECTION

SECTION GP4 – SCOPE OF WORK

GP4.1 SCOPE

GP4.1.1 The Contractor shall furnish all labor, materials, tools, equipment, transportation and supervision, and perform all designing, engineering, manufacturing, testing, furnishing, training, repairs, technical support and other services necessary and incidental to the proper, timely and satisfactory completion of the Work, satisfactorily complete all reliability periods and to do all other tasks required by the Contract Documents.

GP4.1.2 The intent of the Contract Document is to provide Miami-Dade County with one hundred and thirty-six (136) complete Metrorail Vehicles, as required by the Contract Documents, ready for operation by Miami-Dade County, as well as the satisfactory completion of all other portions of the Work. Any item or work omitted from the Contract Documents which is necessary for the proper completion of the Vehicles or other portions of the Work, although not expressly specified in the Contract Documents, shall be furnished or performed by the Contractor.

GP4.2 INTENT OF CONTRACT DOCUMENTS

GP4.2.1 The order of precedence of the Contract Documents shall be as follows:

(A) Change Orders to the Contract.

(B) Notice to Proceed.

(C) Signed Agreement.

(D) General Provisions.

(E) Technical Provisions.

(F) Contract Drawings.

(G) Referenced codes and standards.

(H) Guarantees.

(I) Contractor's Proposal, including both the Summary of Costs and Technical Proposals, upon which the Agreement is awarded.

(J) The RFP.

(K) Other documents.

GP4.2.2 The Contract Documents describe the Work. Where the Contract Documents describe portions of the Work in general terms, but not in complete detail, generally accepted industry practice shall be followed and only new materials and workmanship of the highest quality shall be used.

GP4.2.3 The Contractor shall check all furnished Contract Documents immediately upon receipt and shall immediately notify the Engineer of any discrepancies therein.

GP4.2.4 Omissions from the Contract Documents of details of Work which are necessary to carry out the intent of the Contract Documents, or which are customarily performed, shall not relieve the Contractor from performing such omitted details of Work but such details shall be performed as if set forth and described in the Contract Documents.

GP4.2.5 Anything mentioned in the Technical Provisions and not shown on the Contract Drawings, or shown on the Contract Drawings and not mentioned in the Technical Provisions, shall be treated as if shown or mentioned in both. In case of a discrepancy in the figures or information mentioned in either the Contract Drawings or Technical Provisions, the Contractor shall promptly submit the matter to the Engineer, who will provide a written decision to the Contractor to resolve the discrepancy.

GP4.2.6 In case of differences between small and large scale drawings, the drawings showing greater detail shall govern. Schedules on drawings shall take precedence over conflicting notations on drawings. In the event of discrepancy between any scaled dimensions on drawings and the figures written thereon, the figures shall govern over the scaled dimensions, unless otherwise indicated.

GP4.3 USE AND POSSESSION PRIOR TO COMPLETION

GP4.3.1 Miami-Dade County has the right to take possession of or use any completed portion or partially completed portion of the Work. Such possession or use shall not be deemed as acceptance of the Work or any portion thereof. While Miami-Dade County is in possession of such portion of the Work, the Contractor shall be relieved of the responsibility for loss or damage to only that portion of the Work, except for loss or damage resulting from the Contractor's, Subcontractor's or

Supplier's fault or negligence. The Contractor shall, however, remain responsible for completion of such portion of the Work in accordance with Contract Documents.

GP4.3.2 Notwithstanding the use for Service and possession in excess of twenty-one (21) days by Miami-Dade County of any completed portion or partially completed portion of the Work, the applicable time period for the Contractor's guarantee, and warranties shall not commence until issuance of the Certificate of Acceptance of Final Inspection or the Vehicles are first used in Service as set forth in the Contract Documents.

GP4.4 OTHER CONTRACTS

GP4.4.1 Miami-Dade County may undertake or award contracts associated with this Agreement to others for additional work, and the Contractor shall fully cooperate with such other contractors, the Engineer and Miami-Dade County in the performance and scheduling of such additional work and vice versa. The Contractor shall not interfere with, hinder or delay the performance of Work by other contractors, the Engineer or Miami-Dade County.

If the Engineer anticipates that the additional work will result in an impact to the Contractor, then a Change Notice will be issued to the Contractor in accordance with GP4.6.

The Engineer or the County will not without cause interfere with, hinder or delay the performance of work by the Contractor.

GP4.4.2 When any contractor performing work under or pursuant to another Miami-Dade County contract is employed on work that interfaces with any portion of the Work, the Contractor shall provide to the Engineer all necessary drawings, dimensions, data and other information necessary to ensure the complete, integrated and proper design, manufacture, installation and operation of interfacing and connecting parts and systems as may be required by any contractor performing work under or pursuant to another County contract that interfaces with any portion of the Work. The exchange of information will be coordinated by the Engineer and five copies of all the Contractor's data, drawings and correspondence relating to the above shall be furnished to the Engineer.

The Contractor, if it deems certain documentation to be proprietary and/or exempt from Florida's Public Records Law, must, at the time of document(s) delivery, if it wishes not to have

said documentation publicly disclosed, identify as "proprietary" on the lower right hand corner of each page of said document(s) it maintains are proprietary. In the event the County receives a public records request for said document(s), the County will notify the Contractor of the request and provide a reasonable opportunity for the Contractor to obtain a court order prohibiting the release of said documents(s). The Contractor shall bear all responsibility and costs, including attorney's fees, for any court action arising out of Contractor's identification of document(s) as proprietary.

GP4.4.3 The other contracts of which Miami-Dade County is currently aware of, and for which the Contractor may have to interface are identified, but are not limited to those identified in the Contract Documents. The Contractor will be notified under separate cover of any additional such contracts.

GP4.5 INDEPENDENT CONTRACTOR

GP4.5.1 The Contractor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which it performs the Work required under the terms of the Contract Documents. The Contractor shall be liable for its own acts and omissions as well as those of its employees, agents, Subcontractors and Suppliers. Nothing contained herein shall be construed as creating an employment or agency relationship between Miami-Dade County and the Contractor.

GP4.5.2 Terms in the Contract Documents referring to direction from Miami-Dade County or the Engineer shall be construed as providing direction as to policy and the result of the Work only, and not as to means by which such result is obtained.

GP4.6 CHANGES

GP4.6.1 Miami-Dade County may, at any time, without invalidating the Agreement and without notice to the Sureties, by a written Change Order, order modifications in the Work and/or the Contract Documents, including changes, modifications, additions or deletions.

GP4.6.2 The Contractor may, at any time, submit in writing to the Engineer proposed modifications to the Work. The Engineer will review such proposals and recommend the approval or denial of such proposed modifications to Miami-Dade County, and Miami-

Dade County, at its sole discretion, may either approve or deny such proposed modifications.

The Contractor shall issue the proposed modifications in a Change Notice, upon accepting the modifications proposed in the Change Notice, Miami-Dade County will execute and issue a Change Order. The denial by Miami-Dade County of the Contractor's proposed modification shall neither provide the Contractor with any basis for a claim for damages nor an adjustment of the Time of Completion, nor shall the denial release the Contractor from its contractual responsibilities under the Contract Documents.

GP4.6.3 Except as herein provided, no order, statement or conduct of Miami-Dade County or the Engineer shall be treated as a Change Order or entitle the Contractor to an equitable adjustment hereunder.

GP4.6.4 If any Change Order causes an increase or decrease in the Contract Sum, or the time required for the performance of any part of the Work, an equitable adjustment will be made and the Agreement will be accordingly modified in writing.

GP4.6.5 Within thirty (30) days, unless the County grants a time extension, of receiving a Change Notice from the Engineer or upon submission of a proposed modification pursuant to GP4.6.2, the Contractor shall submit, with each change, modification, addition or deletion, involving an increase or decrease in the cost of performing the Work, an itemized cost breakdown covering any Subcontractor's work as well as its own. The Contractor shall also indicate any increase or decrease in the Time of Completion as a result of the proposed modification. The itemized breakdown shall include, but is not limited to, the following:

(A) Material quantities and unit prices;

(B) Engineering costs;

(C) Labor costs (identified with the specific item manufactured or installed or operation performed; classification of employee(s) involved in the work and their labor rate);

(D) Equipment costs;

(E) Overhead as determined by an independent audit of the Contractor's overhead rates and approval by the County;

(F) Profit – not to exceed 10%; and

(G) Employment taxes under the Federal Insurance Contributions Act and Federal Unemployment Tax Act.

The Contractor shall also include, as part of its submission, a subnet schedule showing a complete breakdown of all of the tasks required to complete the proposed modification, including the impact of the modification on the Project Schedule. This subnet schedule shall be in the same format as, and fully integrated into, the Project Schedule.

GP4.6.6 At the sole discretion of Miami-Dade County, adjustments in the Contract Sum resulting from a change, modification, addition or deletion in the Work shall be determined by one or more of the following:

(A) By agreement.

(B) By Miami-Dade County on the basis of the Engineer's estimate of an equitable increase or decrease in the Contract Sum.

(C) Other consideration by the County. If adjustments in the Contract sum are implemented through GP4.6, the Contractor, if not in agreement may pursue the Dispute Resolution Procedures in accordance with GP4.8.

GP4.6.7 No allowance shall be made or recovery be allowed, to the Contractor for loss of anticipated profit or overhead recovery as a result of a portion of the Work not being performed by reason of a change, modification, addition or deletion in the Work.

GP4.6.8 Adjustments in the Time of Completion of the Work shall only be allowed if the Work included in the change, modification, addition or deletion falls on the critical path of the Project Schedule or alters such critical path so as to extend the time required for completion of the Work. The critical path will be determined from the latest approved version of the Contractor's Project Schedule required by GP8.8.

GP4.6.9 The Contractor's written acceptance of a Change Order shall constitute the Contractor's final and binding agreement to the

provisions thereof and a waiver by the Contractor of any claims, whether direct or consequential in nature, resulting therefrom. Disagreement with a Change Order shall in no way excuse the Contractor from complying with, and prosecuting, the work set forth in the Change Order. Should the Contractor disagree with any Change Order, it shall, within fifteen (15) days after receipt of the Change Order, submit to the Engineer a written statement specifically setting forth the nature and monetary extent of such disagreement. No such claim by the Contractor shall be considered if it is asserted after fifteen (15) days of Contractor's receipt of the Change Order or after final payment under the Agreement has been made.

GP4.7 VALUE ENGINEERING INCENTIVE

GP4.7.1 Value Engineering is defined as cost reduction proposals initiated and developed by the Contractor for changing the requirements of the Contract Documents. This provision does not apply to any such proposal unless the proposal is specifically identified by the Contractor, at the time of submission to the Engineer, as a proposal submitted pursuant to this provision. The cost reduction proposals contemplated are those that:

(A) Would result in less costly items than those specified in the Contract Documents without impairing any of their essential functions and characteristics such as service life, reliability, availability, economy of operation, ease of maintenance, and necessary standardized features; and

(B) Would require, in order to be applied to the Agreement, a Change Order to the Agreement.

GP4.7.2 Cost reduction proposals, as defined herein, will be processed in the same manner as prescribed for any other proposal which would likewise necessitate issuance of a Change Order. At a minimum, the following information shall be submitted by the Contractor with each such proposal:

(A) A description of the difference between the Contract Documents and the proposed change, and the comparative advantages and disadvantages of each;

(B) An itemization of the requirements of the Contract Documents which must be changed if the proposal is adopted and suggested wording for revisions required;

(C) An estimate of the reduction in costs that will result from adoption of the proposal taking into account the costs of implementation by the Contractor, and the basis for the estimate;

(D) A prediction of any effects the proposed change would have on other costs to Miami-Dade County such as Miami-Dade County–furnished property costs, costs of related items, and costs of maintenance and operation; and

(E) A statement of the time by which a Change Order adopting the proposal must be issued so as to obtain the maximum cost reduction during the remainder of the Agreement, noting any effect on maintaining the Project Schedule.

GP4.7.3 Miami-Dade County shall not be liable for any delays in acting upon, or for any failure to act upon, any proposal submitted pursuant to this provision. The decision of Miami-Dade County as to the acceptance or rejection of any such proposal shall be final and binding upon the Contractor and shall not be the basis for a claim pursuant to GP4.8. Unless and until a Change Order adding such proposal to the Agreement is issued, the Contractor shall remain obligated and continue to perform the Work in accordance with the Contract Documents. Miami-Dade County, at its sole discretion, may accept, in whole or in part, any cost reduction proposal submitted pursuant to this provision by issuing a Change Order which will identify the cost reduction on which it is based.

GP4.7.4 If a cost reduction proposal submitted pursuant to this provision, or any part thereof, is accepted as a value engineering change under the Agreement, an equitable adjustment in the Contract Sum and in any other affected provisions of the Contract Documents shall be made in accordance with this provision and GP4.6. If the equitable adjustment involves a reduction in the Contract Sum, it shall be established by determining the amount of the total estimated decrease in the Contractor's cost of performance resulting from the adoption of the cost reduction proposal, taking into account the cost of implementing the change by the Contractor, and reducing the Contract Sum by fifty percent (50%) of such decrease.

GP4.8 CLAIMS AND DISPUTES

GP4.8.1 All actions, claims and disputes arising out of, under, or in connection with, the Agreement, the Contract Documents or for a breach thereof, except as provided in or limited by GP4.6.9 (written acceptance of a Change Order), GP4.8.2 (condition precedent); GP4.8.4 (limitation on commencement), GP4.8.6 (ninety day period) and GP9.4.5 (waiver by final payment), shall only be commenced in a court of competent jurisdiction in Miami-Dade County, Florida and the Contractor hereby consents and submits to the jurisdiction of such court.

GP4.8.2 As an express condition precedent to the Contractor's right to commence a court proceeding, as set forth in GP4.8.1, the Contractor shall provide to the Contracting Officer:

(A) A written claim which shall set forth, in detail, the amount of additional compensation or time claimed and the basis for the claim and the amount claimed;

(B) All materials utilized by the Contractor in preparation of its claim, including, but not limited to, all worksheets, quotations, calculations, pricing data, estimates and correspondence relating thereto;

(C) Written evidence of, and support for, any claim, including evidence regarding liability, causation and damages, sufficient to enable the Contracting Officer to render a decision with respect to such claim; and

(D) Such other information as the Contracting Officer may reasonably request.

Within thirty (30) days of the Contractor's first knowledge of an event giving rise to a claim, the Contractor shall provide written notice to Miami-Dade County of its intent to file a claim. The Contractor shall present such claim and supporting information and evidence to the County within forty-five (45) days of its notice to the County, or within such longer period of time as the County and the Contractor may mutually agree. Within ninety (90) days of receiving all such information and evidence, the County will render a written decision with respect to the claim.

In the event the CONTRACTOR and Contracting Officer are unable to resolve their differences concerning any determination made by the Engineer or any dispute or claim arising under or

relating to the Contract, either the CONTRACTOR or COUNTY may initiate a dispute in accordance with the procedure set forth in this Section. Exhaustion of these procedures shall be a precondition to any lawsuit permitted hereunder.

The parties to this contract hereby authorize the use of a mutually agreed upon arbitrator to assist in resolving any dispute. Such arbitration shall be in accordance with the provisions of GP4.8.3.

GP4.8.3 Resolution of Potential Claims:

MDC will give a formal response to a notice of potential claim within the following time limits after all data requested by MDC or MDC's Representative have been provided: a response to potential claims under $50,000 will be given within forty-five (45) Days; a response to potential claims from $50,000 through $375,000 will be given within sixty (60) Days; and a response to potential claims over $375,000 will be given within ninety (90) Days. These time limits may be extended only by mutual agreement in writing. If MDC fails or refuses to act on a potential claim within such time, the potential claim will be deemed to have been rejected by MDC on the last day of the period within which MDC was required to act upon the potential claim, and the Contractor may proceed as though the potential claim had not been resolved.

Nonbinding Arbitration: Within fifteen (15) Days after receipt of MDC's response, or within fifteen (15) Days after the applicable time limit for MDC's response set forth herein, whichever is earlier, the Contractor may file a written objection with MDC's Representative, stating clearly and in detail the basis for its objection to MDC's response. Within fifteen (15) Days of receipt of the Contractor's objection, the Contractor or MDC may request for Nonbinding arbitration of the potential claim in accordance with the following procedure:

Notice of Nonbinding arbitration: Either MDC or the Contractor may submit any remaining dispute to nonbinding arbitration by serving a written notice of Nonbinding arbitration ("Notice of Nonbinding arbitration") on the other. The Notice of Nonbinding arbitration shall be signed, on behalf of MDC, by MDC's Representative; and, on behalf of the Contractor, by an individual having authority as its representative. The Nonbinding arbitration shall proceed in accordance with rules promulgated by the arbitrator and shall be concluded within thirty (30) Days,

unless extended by mutual agreement of the parties. MDC will be represented by MDC's Representative(s) or such other higher-level representative of its choosing, and the Contractor shall be represented by an individual(s) having authority as its representative. The entire process shall be treated as a compromise negotiation for purposes of federal and state rules of evidence.

Selection of Arbitrator: Within fifteen (15) Days of the Notice of Nonbinding arbitration referred to herein, the parties shall meet and select a disinterested third person to act as arbitrator ("Arbitrator"). If the parties fail to agree, either party may request the American Arbitration Association in Miami to appoint the Arbitrator. The Arbitrator shall be replaced within fifteen (15) Days of receipt of a written request of either party, using the procedure outlined above; provided, however, that either party may only replace the Arbitrator once.

Cost of Arbitrator: The MDC, through MDC's Representative, shall provide to the Abitrator, at no cost to the Contractor, administrative services such as conference facilities and secretarial services, excluding transcription services, which will be borne equally by both parties. Fees and expenses of the Arbitrator shall be borne equally by MDC and the Contractor.

Change Order: If MDC and the Contractor are able to resolve their dispute through Nonbinding arbitration, MDC shall promptly process any appropriate Contract Change Order.

Filing of Claim: If the potential claim has not been resolved to the satisfaction of either party by the above procedures, either party may present the Claim to the MDC County Manager for resolution. The parties hereto further agree that, upon timely request under this Section, both the Contractor and County are entitled to a hearing before the County Manager, or his designee, at which both Contractor and the County may present evidence and live testimony, in accordance with the Florida Rules of Evidence, and the right to cross-examine each other's witnesses.

Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the directions of the Engineer.

GP4.8.4 No court proceeding arising from any such claim, dispute, or other matter shall or may be commenced by the Contractor until the earlier of:

(A) The date on which the Miami-Dade County Manager, or his designee, has rendered his written decision provided for in GP4.8.3; or

(B) The ninetieth (90th) day after the Contractor has provided Miami-Dade County with all the materials and evidence required by GP4.8.2, if the Contracting Officer has not rendered his written decision by that date.

Failure by the Contractor to commence a court proceeding within said thirty (30) days of the County Manager, or designee's written decision, shall result in Miami-Dade County's decision becoming final and binding upon the Contractor.

GP4.8.5 Unless otherwise agreed in writing by Miami-Dade County, the Contractor shall carry on and maintain progress of the Work pending any claim or court proceeding.

GP4.8.6 No claim may be raised by the Contractor later than ninety (90) days following the issuance by Miami-Dade County of the Acceptance Certificate.

GP4.8.7 Any court proceeding or action arising out of, under, or in connection with, the Agreement, the Contract Documents, a breach thereof, or GP4.8 shall be conducted in accordance with, and governed by, the laws of the State of Florida.

GP4.8.8 Should the Contractor sustain any damage or costs through any act or omission of any other contractor having a contract with Miami-Dade County, a subcontractor of such a contractor or any other person or entity, the Contractor shall have no claim against Miami-Dade County or the Engineer for such damage or costs, but instead, shall only have the right to recover such damage or costs from the other contractor, subcontractor, entity or person.

GP4.8.9 Notwithstanding any concurrence by the FTA, other Governmental agencies, or the State in or approval of the award of the Agreement, absent the express written consent by the FTA, other Governmental agencies, or the State, none of these entities is a party to the Agreement and shall not be subject to any claims, obligations or liabilities by the Contractor.

The Contractor agrees to include the above clause in each subcontract to the Agreement.

GP4.8.10 The Contractor's maximum liability to Miami-Dade County arising out of, or in connection with, the Agreement, including liquidated damages incurred pursuant to GP8.7, shall not exceed the total of the Contract Sum, as it may be or have been changed from time to time in accordance with the Contract Documents, provided that this limitation shall not apply to or affect, in any way: any obligation of the Contractor to indemnify and/or hold harmless Miami-Dade County for claims of third parties (including employees of the Contractor, Miami-Dade County, or the Engineer); claims for personal injury and/or third–party property damage; recovery under any insurance provided or acquired by the Contractor or the Bonds or Letters of Credit; or the Contractor's liability resulting or arising from its gross negligence or willful or intentional misconduct.

GP4.8.11 Except for, and/or to the extent covered by, liquidated damages incurred pursuant to GP8.7, neither party to the Agreement shall be liable to the other party for the loss of profits or revenue. This limitation shall not apply to or affect, in any way: any obligation of the Contractor to indemnify and/or hold harmless Miami-Dade County for claims of third parties (including employees of the Contractor, Miami-Dade County, or the Engineer); third-party claims for bodily injury and/or third–party property damage; or the Contractor's liability resulting or arising from its gross negligence or willful or intentional misconduct.

GP4.9 ASSIGNMENT OF MONIES OWED

Monies owed, or which become owed, to the Contractor under the Agreement may only be assigned to a bank, trust company, or other financing institution, including any federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Written notice of such an assignment or reassignment must be provided, however, to Miami-Dade County by certified mail within ten (10) days of the assignment or reassignment. Any such assignment or reassignment shall cover all amounts payable under the Contract Documents but not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing.

GP4.10 FACILITIES FOR MIAMI-DADE/ENGINEER

GP4.10.1 The Contractor and each Subcontractor and Supplier whose subcontract, agreement, or purchase order with the Contractor that has a value in excess of $2,000,000 (aggregate) shall provide office space suitable to, and for use by, Miami-Dade County, the Engineer and their representatives for overseeing the Agreement, performing inspections, witnessing tests, maintaining records, auditing the quality assurance program and reviewing design and configuration changes. Such office space shall be adequate for the intended purposes and shall be fully and adequately equipped, utilities supplied, furnished, maintained, cleaned and security protected as necessary, to the satisfaction of Miami-Dade County, by the Contractor, its Subcontractors or Suppliers. The office space provided to Miami-Dade County shall include two (2) dedicated offices, with analog and high speed telephone lines, high speed internet access, and access to a conference room and fax machine, and a minimum of three (3) dedicated parking places for all Miami-Dade County's and Engineer's personnel assigned to the Contractor's, Subcontractor's or Supplier's facility. Access to the Work and office space shall be available on a 24–hour, 7 days a week basis, if required by the Work.

GP4.11 OPERATIONS AND STORAGE AREAS

GP4.11.1 To the extent that any portion of the Work is performed on Miami-Dade County's property, all operations of the Contractor, including storage of materials and equipment, shall be confined to areas authorized and approved by the Engineer.

GP4.11.2 Temporary buildings, storage sheds, shops, offices and the like, to be located on Miami-Dade County's property, may be provided and used by the Contractor only with the prior written approval of the Engineer, and shall be built with labor and materials furnished by the Contractor at no expense to Miami-Dade County. Such facilities shall remain the property of the Contractor and shall be removed by it at its expense prior to the completion of the Agreement or within fifteen (15) days notice from the Engineer.

GP4.11.3 Limited parking facilities for the Contractor's and its Subcontractor's and Supplier's personnel will be provided by Miami-Dade County, on its property, in an area(s) to be determined by Miami-Dade County. Additional parking facilities

for the Contractor's and any Subcontractor's or Supplier's personnel shall be the Contractor's responsibility.

GP4.11.4 The Contractor shall provide three (3) trailers, to be located on the County's property, to be used in performing the Work. The County will provide the Contractor with space(s) for the trailers on the County's property at the Lehman Rail Center or on other property as otherwise determined by the County. Throughout the performance of the Work, the trailers shall be utilized by the Contractor in the following manner:

(A) One (1) trailer shall be designated for use by the County and the Engineer.

(B) One (1) trailer shall be designated for use by the Contractor and Subcontractors and Suppliers.

(C) One (1) trailer shall be designated for use as a conference room and storage area for the Work.

The Contractor shall be responsible for all permits, cost of services to, maintenance for, and subsequent removal of the trailers including, but not limited to, electric, water, sewage, telephone, fax, cleaning and security.

GP4.12 LIMITATIONS ON WORK

GP4.12.1 At no time during the course of the Agreement, unless authorized by the County, shall there be more than eight (8) Rail Vehicles on the County's property that have not been issued a Certificate of Acceptance of Final Inspection or have been placed in revenue service. The County will not permit the delivery of additional Vehicles in the event that there are eight (8) Vehicles on the County's property that have not been issued a Certificate of Acceptance of Final Inspection or have not been placed in revenue service. Any impact resulting from this condition will be the responsibility of the Contractor.

GP4.13 CONTRACTOR'S OFFICE

At least one-hundred-eighty (180) days prior to the shipment of the first Vehicle or miscellaneous parts to the County's property and thereafter, until the issuance of the Acceptance Certificate by the County, the Contractor shall assume the office space provided by MDT in Miami-Dade County, Florida, to maintain close communication with the County.

GP4.14 OPPORTUNITY RECOVERY COST (OCR)

If the Contractor proposes to perform final assembly of the new Metrorail cars in Miami-Dade County, with the exception of the Pilot vehicles, the Contractor shall be subject to the following Opportunity Cost Recovery requirements.

GP4.14.1 The Contractor shall commit to performing the following Work Activities at a final assembly facility that shall be located in Miami-Dade County:

Work Activities:

1. Truck Assembly:
   Truck mounted sub-components installation
   Axle-wheel set-brake discs installation
   Suspensions installation
   Bolster beam installation
   Traction Pneumatic system installation
   Motors-gear boxes installation
   Other truck mounted equipment installation
   Truck press loading

2. Flooring:
   Floor panel installation

3. Wiring:
   Cable trays installation
   Cables drafting
   Cables/connector connections
   Terminal board installation
   Equipment wiring

4. Equipment Installation:
   Pneumatic system installation
   Passenger Doors installation
   Lighting system installation
   Couplers-draft gears installation
   Radio, ATC, VMS PIS installation
   Under frame equipment installation:
   - Battery
   - Traction Inverter
   - Air compressor
   - Aux Inverter
   - LVPS

5. Interiors Installation:

Windows installation
Interior linings installation
Stanchions, grab handles installation
Seats installation
Driver cab and partitions installation
Ceiling installation
Electrical lockers installation

6. Truck installation:
   Car body - truck mechanical coupling and
   Pneumatic - electrical connections

7. Testing:
   Routine Vehicle Tests
   Pre-Shipment Tests

GP4.14.2 If after committing to perform the work activities, the Contractor decides not to perform any or all of the work activities in Miami-Dade County, an OCR amount of ten percent (10%) of the Contract Sum will be paid by the Contractor as outlined in GP4.14.3. The OCR will be prorated based on the number of cars for which any or all of the work activities are not performed in Miami-Dade County.

GP4.14.3 The OCR shall be paid as follows:

1. If the Contractor decides not to perform final assembly of the new Metrorail cars in Miami-Dade County, with the exception of the Pilot vehicles, the Contractor shall notify the County and the OCR shall be paid in full immediately upon notification.
2. If the Contractor decides not to perform any or all of the above activities in Miami-Dade County on a per car basis, the prorated portion of the OCR for each applicable car is due immediately upon commencement of the work activity on the applicable car.
3. In the event that the Contractor does not pay the OCR within 30 days, then the County may deduct the OCR from any invoice amounts due the Contractor.

END OF SECTION

SECTION GP5 – CONTROL OF MATERIALS

GP5.1 SOURCE OF SUPPLY AND QUALITY OF MATERIALS

GP5.1.1 For the purposes of GP5.1 only, the term "materials" shall mean all material, equipment, systems, subsystems, components, hardware software, parts and products furnished for incorporation into, or necessary to complete the Vehicles or any other portion of the Work.

GP5.1.2 Any and all materials in the possession of the Contractor, its Subcontractors or its Suppliers and designed or intended for use in the Work shall be clearly marked or otherwise designated as a portion of the Work to which the Agreement refers and shall be segregated from other materials belonging to the Contractor, its Subcontractors or its Suppliers.

GP5.1.3 The Contractor shall furnish all materials except those materials which Miami-Dade County may, at its discretion, choose to provide.

GP5.1.4 Notwithstanding any prior inspection or approval, only materials conforming to the requirements of the Contract Documents shall be utilized by the Contractor.

GP5.1.5 The materials furnished by the Contractor shall be new and not used or refurbished except as otherwise provided in the Contract Documents. The materials shall be manufactured, handled, installed and used in a proper and workmanlike manner to ensure that the Work is completed in accordance with the Contract Documents.

The materials furnished shall conform to the requirements of the Contract Documents for the purposes specified, with properties necessary to withstand, safely and reliably, the strains and stresses to which they will be subjected in normal and/or expected operation.

All materials furnished under this Agreement, to the maximum extent possible, shall be compatible with Miami-Dade County's maintenance facilities, equipment and practices.

GP5.1.6 Upon request, the Contractor shall furnish to the Engineer samples of the materials.

GP5.1.7 In addition to inspection and testing performed by the Contractor, materials shall be subject to inspection and testing by the Engineer at the place of production or manufacture, at the shipping point and at the destination. Inspection and testing, or the lack thereof, of materials by Miami-Dade County or the Engineer does not relieve the Contractor from responsibility regarding any defect therein or other failure to meet the requirements of the Contract Documents and shall not be considered as a guarantee of acceptance of any materials furnished by the Contractor.

GP5.1.8 In determining the suitability of subsystems for the Project, the County will apply the principles of Federal Acquisition Regulations (FAR) subpart 1-1.11 "Qualified Products," as applicable.

GP5.2 WARRANTIES, REPRESENTATIONS AND COVENANTS

GP5.2.1 The Contractor warrants, affirmatively represents and covenants as follows:

(A) The Contractor shall utilize its best efforts in performing the Work;

(B) The Vehicles, the Work and all material, systems, subsystems, components, parts, equipment, products, hardware and software furnished pursuant to the Contract Documents are, shall be, and shall perform, in accordance and conformance with the requirements of the Contract Documents;

(C) Vehicles, material, systems, subsystems, components, parts, equipment, products, hardware and software delivered, or supplied to Miami-Dade County are and shall be free of all security interests or other liens, claims, or encumbrances whatsoever. The Contractor further warrants and agrees to defend all such Vehicles, material, systems, subsystems, components, parts, equipment, products, hardware and software against all persons claiming an interest therein or title thereto;

(D) The Vehicles, all material, systems, subsystems, components, parts, equipment, products, hardware and software furnished pursuant to the Contract Documents and all other portions of the Work are and shall be: free from defective and inferior, as defined in GP5.2.2,

materials, equipment and/or workmanship; fit, sufficient, and suitable for their intended purpose; merchantable and of good quality; properly manufactured, and in compliance with all applicable laws, codes, regulations, and standards;

(E) All software licenses and any software functions, including any required customization, do and shall meet the requirements of the Contract Documents are and shall be consistent with the Contractor's Proposal and any additional written or oral representations or warranties of the Contractor;

(F) The Vehicles, all material, systems, subsystems, components, parts, equipment, products, hardware and software furnished pursuant to the Contract Documents and all other portions of the Work are, and shall be, free of the rightful claim of any person or entity for patent or trademark infringement;

(G) With respect to any Contractor's proprietary software associated with the Vehicles that is to be licensed rather than purchased outright or developed as a new product ("Licensed Software"), Contractor grants to Miami-Dade County, or shall ensure that any third party vendor grants to Miami-Dade County, a perpetual, non-exclusive, irrevocable, paid-up, worldwide right and license to use, display and copy the Licensed Software in order for Miami-Dade County and its employees or agents to operate, maintain, repair and support the Vehicles provided per this Agreement;

(H) The Contractor shall ensure, consistent with applicable industry standards, that the Software including, without limitation, any and all customizations thereto, shall be documented in a manner consistent with Contract Documents and the best standards of the industry;

(I) During the performance of the Work, and, for a minimum of five (5) years after the issuance of the Acceptance Certificate, the Contractor shall provide Contractor/subcontractor-developed Software (e.g., brake/propulsion, ATO, and ATP software) and firmware upgrades and support to Miami-Dade County. The Contractor shall ensure that the latest, most up--to--date, version of application and operating software and

firmware that has been released is installed in the Work, which may require multiple upgrades by the Contractor. In the event that the Contractor should cease to support or repair the Software or firmware, the Contractor shall provide to Miami-Dade County, at no cost to Miami-Dade County, software and/or firmware of like features and functionality, as determined by Miami-Dade County and at no additional cost to the County;

(J) (1) The Contractor and all of its Subcontractors and Suppliers shall, at no expense to the County, enter into a software escrow agreement with Miami-Dade County and a nationally recognized software escrow agent acceptable to Miami-Dade County. The software escrow agreement shall contain terms acceptable to Miami-Dade County and pursuant to which the Contractor and all of its Subcontractors and Suppliers shall be obligated to deliver to the escrow agent thereunder, a copy of all source codes and the software libraries used or necessary for the creation or the design of the object code version of, and the operation of, the Software, together with any compilers, linkers, loaders, or other utilities, software libraries, the written documentation used or prepared in connection therewith, which documentation shall be reasonably sufficient to enable Miami-Dade County to recreate the object code version of the Software from such source code, compilers, linkers, loaders, and utilities, and anything else designated by the Engineer (collectively, the "Escrowed Materials"). Thereafter, during the term of the software escrow agreement, the Contractor shall supplement and replace the Escrowed Materials, as necessary, such that the Escrowed Materials collectively are consistent, at all times, with the form of the Software most recently provided or delivered by the Contractor to Miami-Dade County for the Work. The Contractor, on a yearly basis, shall certify to Miami-Dade County that the Contractor is fully in compliance with the foregoing escrow provisions. Miami-Dade County shall also be entitled, at its own cost and expense, to retain the escrow agent to verify, by whatever means are then available, the contents of the Escrowed Materials.

(2) The software escrow agreement shall commence when the Certificate of Acceptance of Final Inspection is issued for the first Vehicle and shall remain in effect for ten (10) years after acceptance of the last Vehicle. At the conclusion of said ten (10) year period, MDT may elect to keep the software escrow agreement in effect at MDT's expense. At the conclusion of the agreement all Escrowed Materials shall be returned to the Contractor. If during the operation of the software escrow agreement, the Contractor or any of its Subcontractors or Suppliers cease doing business, or the Contractor fails to perform its warranty or other obligations under the Contract Document, then the Software and other items held in escrow and delivered by said entity shall be immediately delivered to, and become the property of, Miami-Dade County, free of all costs or claims.

(3) If the Contractor does not or is not able to provide all of the final, as-built drawings required by TPN 15 of the Technical Provisions, then those drawings not provided shall be placed in escrow. The requirements for escrowing the drawings, including the escrow agreement, shall be the same as those identified for the software as detailed in items (1) and (2) above.

(K) The Vehicles, the Software and all other materials, systems, subsystems, components, parts, equipment, products, and hardware furnished pursuant to the Contract Documents, including, without limitation, any and all enhancements, upgrades, customizations, modifications and the like containing or calling on a calendar or date–related function, including, without limitation, any function indexed to a CPU clock, and any function, including any that translate century data received from interfacing applications, providing specific dates or days, or calculating spans of dates or days, or otherwise manipulating, calculating, comparing or sequencing dates or date–related or date–derived data, shall correctly record, store, process, provide, and, where applicable, insert true and accurate dates and correctly perform such manipulations, calculations, comparisons and sequencings for the dates. Without limiting the generality of the foregoing, the Vehicles, the

Software, and all other materials, systems, subsystems, components, elements, parts, equipment, products and hardware shall also correctly recognize leap years as any non–century year divisible by 4, and any century year divisible by 400.

GP5.2.2 For purposes of only GP5.2, unless otherwise expressly stated in the Contract Documents, "defective or inferior" shall mean any condition, malfunction, or failure, whatsoever the cause, whether patent or latent, whereby a Vehicle, system, subsystem, component, part, equipment, product, hardware, software, material, or other portion of the Work shall, in the opinion of the Miami-Dade County and/or Engineer: require repair, replacement, or other than routine maintenance; cause a Vehicle or other portion of the Work to cease operating or operate in a degraded mode; inflict damage or harm on any Vehicle, portion of a Vehicle or other portion of the Work; or otherwise fail to conform to the requirements of the Contract Documents.

GP5.2.3 In accordance with TPN15, the Contractor shall provide full-time, on-site, and qualified maintenance personnel to provide oversight and support of preventive and corrective maintenance performed by MDT, assist with testing, failure diagnostics , and to resolve operation and maintenance problems from the time the first Pre-Production Married Pair is delivered to MDT until the issuance of the Acceptance Certificate of the final vehicle. The County shall have the right to perform normal and routine maintenance in accordance with the manufacturer's recommended parts and maintenance procedures and periodic inspections of, or on, any portion of the Work without voiding any warranty, guaranty or covenant provided pursuant to the Contract Documents or otherwise.

GP5.2.4 Unless otherwise expressly stated in the Contract Documents, the period(s) for the warranties and guarantees set forth in, referenced in, included in, or required by, the Contract Documents or otherwise expressly made by the Contractor shall commence:

(A) For each New Metrorail Vehicle, when the Certificate of Acceptance of Final Inspection is issued for the New Metrorail Vehicle or the New Metrorail Vehicle is first used in Service by Miami-Dade Transit, whichever occurs first, and shall run for a period of:

(1) Ten (10) years for carbody structure, under floor equipment supports and truck structural parts for each New Metrorail Vehicle;

(2) Eight (8) years for propulsion drive train, including the drive motor, for each New Metrorail Vehicle;

(3) Five (5) years for couplers for each New Metrorail Vehicle; and

(4) Five (5) years for all remaining materials, systems, subsystems, components, parts, hardware, software, equipment and products furnished under this Agreement for each New Metrorail Vehicle.

(B) For each spare part provided pursuant to the Contract Documents, and all other equipment, material and products provided pursuant to the Contract Documents and the remaining portions of the Work, which are not warranted pursuant to GP5.2.4(A) or GP5.2.4(B), above, when the Acceptance Certificate is issued or when the spare part, the other equipment, material or product or remaining portion of the Work is first used in Service, whichever occurs first for each such item or portion of the Work, and shall run for a period of five (5)) years thereafter.

GP5.2.5 (A) Prior to the acceptance by Miami-Dade County of the corresponding portion of the Work, the Contractor shall cause any warranties and/or guarantees received from Subcontractors, Suppliers and manufacturers to be made directly to Miami-Dade County, or if made to the Contractor, the Contractor shall immediately assign the warranty and/or guaranty to Miami-Dade County and shall furnish Miami-Dade County with written evidence of such warranties and guarantees and any assignment thereof. As necessary, all such warranties and guarantees shall be promptly enforced by the Contractor for Miami-Dade County's benefit.

(B) The aforesaid warranties and/or guarantees are in addition to, and are not intended to be nor shall be substituted for, the Contractor's warranties and guarantees.

(C) If the maker of the aforesaid warranties or guarantees fails to fulfill its obligation thereunder, the Contractor shall fulfill such obligation of the warrantor or guarantor and reimburse Miami-Dade County for any costs incurred by Miami-Dade County in replacing defective or inferior Work, hardware, software, systems, subsystems, components, parts, equipment or other materials covered by any such warranty or guaranty.

GP5.2.6 If, within the applicable warranty period, Miami-Dade County determines, in its opinion, that warranted or guaranteed Work, Vehicles, systems, subsystems, components, parts, equipment, products, hardware, software, or other materials need to be repaired or replaced because of defective or inferior material, equipment, parts or workmanship, because of a failure to conform to the requirements of the Contract Documents or because of some other failure to adhere to an applicable warranty or guaranty, Miami-Dade County will so inform the Contractor in writing and the Contractor shall, within a time specified in GP5.2.7, and without additional expense to Miami-Dade County:

(A) Repair or replace all such warranted or guaranteed Work;

(B) Repair or replace all damage to equipment, any building or contents thereof, which results from such warranted or guaranteed Work; and

(C) Repair or replace materials, equipment and parts that are used in fulfilling the warranty or guaranty.

GP5.2.7 (A) Within seven (7) days after receipt of written notification from Miami-Dade County, pursuant to GP5.2.6, the Contractor shall either agree that the defective or inferior Work, Vehicle, subsystem, component, part, equipment, product, hardware, software, or other material is covered by warranty or guaranty, or reserve judgment, until the Work, Vehicle, system, subsystem, component, part, equipment, product, hardware, software, or other material is inspected and tested by the Contractor.

(B) If the Contractor reserves judgment, the Contractor shall perform any inspections and tests necessary to verify the existence of the defective or inferior Work, Vehicle, system, subsystem, component, part, equipment,

product, hardware, software, or other material, or other non–compliance with the applicable warranty or guaranty, within seven (7) days of receipt of Miami-Dade County's written notice.

(C) When the Contractor agrees that a portion of the Work is covered by warranty or guaranty and warranty repair or replacement is required, Miami-Dade County and the Contractor shall agree, within five (5) days of such decision, on the exact scope of the repair, replacement or other work to be performed under the warranty. If no agreement is obtained within the five (5) day period, Miami-Dade County reserves the right to commence the repair, replacement or other work in accordance with GP5.2.9.

(D) After the Contractor has agreed that a portion of the Work is covered by warranty or guaranty and has mutually resolved with Miami-Dade County the work necessary to properly complete the repairs or replacement, as defined in GP5.2.6, the Contractor shall commence, within ten (10) days thereafter, such work.

GP5.2.8 (A) Miami-Dade County, consistent with its operational needs, will make the defective, inferior or non–conforming portion of the Work, Vehicle, system, subsystem, component, part, equipment, product, hardware, software, or other materials available to enable timely completion of repairs, replacement or other work in accordance with GP5.2.

(B) The Contractor, its Subcontractor or its Supplier may be permitted to use Miami-Dade County's facilities to perform warranty work, provided that such work does not interfere with or potentially violate the requirements of any of Miami-Dade County's labor or other agreements, is conducted during normal business hours, does not interfere with other Miami-Dade County activities, and is performed in accordance with Miami-Dade County's operational needs, policies and directions. At Miami-Dade County's option, however, the Contractor may be required to remove the defective, inferior, or non–conforming portion of the Work, Vehicle, system, subsystem, component, part, product, hardware, software, or other material from Miami-Dade County's property while the repairs, replacement or other work is

being performed. The Contractor shall bear all costs of transporting the portion of the Work, Vehicle, system, subsystem, component, part, product, hardware, software, or other material.

(C) Any damage to Miami-Dade County property caused by the Contractor, its Subcontractor or its Supplier in performing such repair, replacement, or other work shall be the sole responsibility of the Contractor and shall be corrected at the Contractor's expense, in a mutually agreed upon time period.

(D) The Contractor shall provide, at its own expense, all parts, tools, and labor required to complete repairs, replacement or other work.

(E) Additionally, if the repair, replacement, or other work involves or requires the redesign or modification of any Vehicle, system, subsystem, component, part, product, hardware, software, or equipment, the Contractor, at its sole expense, shall revise and update all manuals, documents, and data affected thereby.

GP5.2.9 Should the Contractor fail to: agree that a defective, inferior, or non-conforming portion of the Work is covered by warranty or guaranty; proceed within the time specified by GP5.2; or proceed in accordance with the applicable warranty or guaranty, Miami-Dade County may have such work performed by itself or others and the costs of such work shall be the responsibility of the Contractor and may be deducted from monies due, or to become due to the Contractor under the Agreement or any other contract with Miami-Dade County. In the event that final payment under the Agreement has been made, the Contractor shall, within thirty (30) days of notification from Miami-Dade County, reimburse Miami-Dade County for such costs.

GP5.2.10 If warranty work, pursuant to GP5.2, is performed by or on behalf of Miami-Dade County, the following will apply:

(A) Miami-Dade County or its representative may use systems, subsystems, components, parts, products and equipment available from its own stock or those supplied by the Contractor specifically for the repairs or replacement. The Contractor shall replace each used system, subsystem, component, part, product or equipment with a new system, subsystem, component,

part, product or equipment, or, at the Miami-Dade County's option, reimburse Miami-Dade County for the costs of the replaced system, subsystem, component, part, product or equipment, within thirty (30) days of receiving each such request. All material costs associated with replacing or refurbishing the replaced system, subsystem, component, part, product or equipment shall be borne by the Contractor.

(B) Miami-Dade County or its representative may request, in writing, that the Contractor supply replacement systems, subsystems, components, parts, products or equipment for warranty–covered repairs or replacement being performed by, or on behalf of, Miami-Dade County. The Contractor shall commence replacement of these subsystems, components, parts, products or equipment to Miami-Dade County within seven (7) days after receipt of such a request. For any part with a delivery date in excess of thirty (30) days, the Contractor shall immediately notify Miami-Dade County of the reason for the delay and what efforts the Contractor is pursuing to expedite delivery.

(C) The Contractor may request that replaced systems, subsystems, components, parts, products and equipment covered by warranty be returned to the Contractor, with all shipping costs being borne by the Contractor.

(D) Miami-Dade County shall be fully reimbursed by the Contractor for all labor, parts and other costs for all such warranty repair or replacement work performed by, or on behalf of, the County.

(E) The performance of any warranty work by Miami-Dade County shall not relieve the Contractor of any responsibility or obligations under the Contract Documents, the applicable warranty or otherwise.

GP5.2.11 If any portion of the Work or any Vehicle, system, subsystem, component, part, product, hardware, software, or equipment is repaired, rebuilt, or replaced during the applicable warranty period, the properly repaired, rebuilt or replaced portion of the Work, Vehicle, system, subsystem, component, part, product, hardware, software, or equipment shall have the unexpired warranty period of the defective, inferior, or non–conforming

portion of the Work, Vehicle, system, subsystem, component, part, product, hardware, software, or equipment or shall be free of defect and warranted for a period of one (1) year from the date of the approved completion of the referenced work, whichever period is longer.

GP5.2.12 The Contractor shall provide in the Car History Book a record, for each Vehicle at the time of Delivery for Acceptance Testing to Miami-Dade County in accordance with TPN16.

GP5.2.13 Except as otherwise set forth in the Contract Documents, the guarantees, warranties and representations set forth in, referenced in, included in, or required by, the Contract Documents are in lieu of any implied warranties, whether statutory, regulatory or common law.

GP5.2.14 The rights and remedies of Miami-Dade County under GP5.2 are not intended to be exclusive and, except as set forth in GP5.2.13, do not preclude the exercise by Miami-Dade County of any other rights or remedies provided by the Contract Documents or by law with respect to warranties, guarantees, representations, unsatisfactory work performed by the Contractor or the failure by the Contractor to adhere to the Contract Documents.

GP5.3 RELIABILITY DEFECTS

GP5.3.1 Where defects in, or failures of, a system, subsystem, component, part, or equipment do not meet the reliability requirements set forth in TPN18, a reliability defect or failure shall be deemed to have occurred. The Contractor shall retrofit, correct, repair and/or replace, to the satisfaction of the County, all such systems, subsystems, components, parts or equipment provided pursuant to the Contract Documents regardless of whether all such systems, subsystems, components, parts or equipment provided pursuant to the Contract Documents have exhibited the defect or failure and regardless of the warranty status.

GP5.3.2 In the event of the occurrence of any reliability defect or failure, as described in GP5.3.1, the County shall have the right, at its sole discretion, to direct the Contractor to correct the defect or cause of the failure, including performance of any design or engineering studies or analyses, within sixty (60) days of receipt of written notice of the defect or failure from the County. If at any time and for any reason the Contractor cannot perform said

actions within the sixty (60) days, the Contractor shall immediately notify Miami-Dade County of the reason for the delay and what efforts the Contractor is pursuing to expedite completion. Should the Contractor fail to promptly and satisfactorily comply with the foregoing requirement, the County may:

(A) Perform any engineering or design studies or analyses reasonably necessary and may thereafter require the Contractor to correct, repair, replace or retrofit any system, subsystem, component, part or equipment which is necessary for correction of the defect or failure, in which event the Contractor shall perform all work necessary to correct, repair, replace and/or retrofit all such defective or failed items within sixty (60) days of such a written request from the County;

(B) Correct the defect or failure, including performance of any engineering or design studies or analyses reasonably necessary, by any other means; or

(C) Direct that no corrective measures be taken and, as appropriate, modify the Contract Documents as necessary to reflect such action, including an equitable adjustment (reduction) in the Contract Sum in accordance with the GP4.6.

GP5.3.3 The Contractor shall be liable to and shall reimburse the County for all costs incurred by the County in correcting, or obtaining the correction of, a defect or failure covered by GP5.3 including, without limitation, costs for studies, tests, materials, supplies, equipment, labor, labor fringes, engineering, transportation, overhead, and other costs reasonably necessary to perform the corrective work or analyses.

GP5.3.4 All costs incurred by the Contractor for performing studies, tests or the corrective work, or for delay incident thereto, pursuant to GP5.3, shall be solely the responsibility of the Contractor. The Contractor shall also prepare and furnish to the County all data and reports applicable to any correction required under GP5.3 (including revision and updating of all other affected data called for under the Contract Documents) at no increase in the Contract Sum. The County shall not be liable for any costs incurred by the Contractor in complying with GP5.3.

GP5.3.5 The Time of Completion shall not be extended nor shall the Contractor's liability for liquidated damages be reduced as a result of any delay in performance of the Work caused in whole or in part by compliance with GP5.3.

GP5.3.6 Any system, subsystem, component, part or equipment replaced by the County under GP5.3 will be disposed of by the County in the manner requested by the Contractor at the Contractor's expense. If the Contractor fails to furnish disposition instructions, after a written request, the County will dispose of such items, at the Contractor's expense, in such a manner which, in the County's sole judgment, is appropriate under the circumstances.

GP5.3.7 Risk of loss of a Vehicle, system, subsystem, component, part or equipment while in transit to or from the Contractor, or otherwise not located on the County's property, pursuant to GP5.3, shall be borne by the Contractor.

GP5.3.8 All Contractor, Subcontractor and Supplier personnel working on the County's property, pursuant to GP5.3, shall be required to comply with the County's operating rules and procedures and with any safety directive which may be in effect for that location as deemed necessary by the County.

GP5.3.9 The rights and remedies of the County pursuant to GP5.3 are not intended to be exclusive and do not preclude the exercise of any other rights or remedies provided by the Contract Documents or by law.

GP5.4 MIAMI-DADE FURNISHED MATERIALS

GP5.4.1 Miami-Dade County–furnished materials, if any, will be listed or described in the Contract Documents. Such materials will be available at locations designated in the Contract Documents, or if not designated therein, will be delivered to the Worksite.

GP5.4.2 Work such as unloading, transporting from the designated delivery point, handling, storing, protecting and installing such Miami-Dade County–furnished materials shall be performed by the Contractor at its expense. The Contractor shall give the Engineer thirty (30) days written notice in advance of the desired delivery date of Miami-Dade County furnished materials, except where delivery schedules are otherwise established in the Contract Documents.

GP5.4.3 The Contractor shall be responsible for all materials furnished to it by Miami-Dade County and shall pay all demurrage and storage charges which may be incurred on such items. The Contractor shall inspect such materials upon receipt and shall immediately notify the Engineer, in writing, of any damaged materials.

GP5.4.4 If any Miami-Dade County–furnished materials are lost, or damaged from any cause, after receipt by the Contractor, the Contractor shall be liable to Miami-Dade County for the cost of replacing or repairing such Miami-Dade County–furnished materials and the costs thereof may be deducted from monies due, or to become due, the Contractor.

GP5.4.5 County-furnished materials shall be excluded from the Warranties, Representations and Covenants provisions (Section GP5.2) and the Reliability Defects provisions (Section GP5.3).

GP5.5 DEFECTIVE MATERIALS

GP5.5.1 Systems, subsystems, components, parts or equipment for the Vehicles, spare parts or other portions of the Work which are defective or otherwise do not conform to the requirements of the Contract Documents, as determined by the Engineer, may be rejected by the Engineer, whether already installed or completed. If so directed by the Engineer, the Contractor shall promptly repair or remove and replace, in a manner acceptable to the Engineer, such system, subsystem, component, part, equipment, spare part, or portion of the Work. No compensation shall be allowed to the Contractor for such repair or removal and replacement.

GP5.5.2 Rejected systems, subsystems, components, parts or equipment or other portions of the Work, the defects in which have been subsequently corrected, shall not be used in the Vehicles unless approved, in writing, by the Engineer.

GP5.5.3 Upon failure of the Contractor to repair, remove or replace defective or non–conforming systems, subsystems, components, parts, equipment, spare parts, or other portions of the Work, after notice in writing from the Engineer, Miami-Dade County may cause the defective or non–conforming systems, subsystems, components, parts, equipment, spare parts, or other portions of the Work to be repaired, removed or replaced by others. Any costs incurred by Miami-Dade County in having defective or non–conforming systems, subsystems,

components, parts, equipment, spare parts, or other portions of the Work repaired, removed or replaced shall be borne by the Contractor and such costs may be deducted from any monies due, or which become due, the Contractor.

GP5.6 USE OF BRAND NAME MATERIALS OR EQUAL

GP5.6.1 Systems, subsystems, components, parts, equipment or other materials to be incorporated into the Work may be designated in the Contract Documents by their brand names, the names of manufacturers and their catalog information or otherwise. The use of an "equal item" which the Contractor represents to be of at least equal quality and to have the required characteristics for the purpose intended may be permitted by the Engineer to be utilized by the Contractor subject to the following requirements:

(A) "Equal items" may not be used where the systems, subsystems, components, parts, equipment or other materials are designated to match others in use in Miami-Dade County Vehicles or equipment or to match maintenance facilities, equipment or practices utilized by Miami-Dade County in servicing or repairing systems, subsystems, components, parts, equipment or other material in use in Miami-Dade County Vehicles and equipment;

(B) The burden of proof as to quality and suitability of an "equal item" shall be upon the Contractor and it shall furnish information necessary for such determination, as required by the Engineer, at no additional costs to Miami-Dade County. The Engineer shall be the sole judge as to the quality and suitability of "equal items" and the Engineer's decision shall be final and binding;

(C) Where use of an "equal item" involves redesign of, or changes to, other portions of the Work, or results in the need to use maintenance tools or equipment not in the possession of Miami-Dade County or procedures differing from those procedures currently used by Miami-Dade County, the cost and time required to effect such redesign, changes or provide any required maintenance equipment or tools in quantities determined by Miami-Dade County to be necessary shall be borne by the Contractor;

(D) No tests will be made, nor action taken, relating to approval of an "equal item", until the request for substitution is made in writing by the Contractor accompanied by complete data as to the equality of the item proposed. To permit approval without delaying the Work, such request shall be made no less than thirty (30) days prior to the scheduled start of the related work;

(E) The Contract Documents may require that items be classified, rated, or certified by an organization recognized for establishing standards in the industry, such as UL, NEMA and the like. Proposals for utilization of an "equal item" shall be accompanied by reports from the listed or equivalent independent testing laboratory indicating such items do comply with the requirements of the Contract Documents. If independent testing laboratories are used, they shall be subject to prior written approval of the Engineer;

(F) Approval of an "equal item" shall only be for the characteristics or use named in such approval and shall not be used to change or modify any other requirements of the Contract Documents. Further, each approval shall be limited to the portion of the Work for which it is given; and

(G) Any and all costs and/or delays associated with utilization of an "equal item" shall be borne by the Contractor.

GP5.6.2 The specification of a brand name, system, subsystem, component, part, equipment or other material in the Contract Documents shall not relieve the Contractor from its responsibility to complete the Work in accordance with the requirements of the Contract Document. The Contractor shall notify the Engineer of any brand name, system, subsystem, component, part, equipment or other material specified in the Contract Documents which the Contractor believes inappropriate, and/or no longer available, for performing the Work and shall propose a suitable substitute for consideration by the Engineer. Change notice(s) shall be negotiated as needed.

GP5.7 PLANT AND FACILITY INSPECTIONS

Miami-Dade County, the Engineer and/or their authorized representative, may inspect, the Contractor's plant(s) or facility(ies), any materials, parts or equipment procured or manufactured at said plant or facility, as well as, may inspect, at the source of supply, any materials, parts or equipment procured and/or manufactured by a Subcontractor or Supplier or other person, for installation into, or to be used for, a Vehicle or the Work. Miami-Dade County, or its authorized representative, shall have escorted entry at all times, during normal business hours, to such parts of the plants that pertain to the manufacture or production of the Vehicles or materials, parts or equipment to be installed into or used for a Vehicle or the Work. Adequate facilities to make the necessary inspection shall be furnished, at no cost, to Miami-Dade County. The responsibility for providing satisfactory Vehicles and materials, parts and equipment to install into, or use for, the Vehicles or the Work and properly completing the Work rests entirely with the Contractor, notwithstanding any prior inspections or tests by the Miami-Dade County, the Engineer or their authorized representative.

GP5.8 SAMPLES

GP5.8.1 The Contractor shall review, approve and submit to the Engineer samples required by the Contract Documents or otherwise requested by the Engineer. Samples shall be submitted without charge to Miami-Dade County and with shipping charges prepaid. Materials, for which samples are required or requested, shall not be used in the Work until approved in writing by the Engineer.

GP5.8.2 By approving and submitting samples, the Contractor represents that it has determined and verified the suitability for the Work of all such materials and that it has checked and coordinated the data submitted with such samples with the requirements of the Contract Documents.

GP5.8.3 Unless otherwise directed, samples shall be submitted in the number requested by the Engineer and no less than thirty (30) days prior to the scheduled start of the related portion of the Work. Samples shall be identified with a label, where practical, listing the following data:

(A) Name, number and location of Project;

(B) Name of the Contractor;

(C) Material represented and its location in the Work;

(D) Name of producer, brand or trade name, if applicable, and place of origin; and

(E) Date of submittal.

GP5.8.4 The Contractor shall forward a letter to the Engineer with each shipment of samples and such letter shall contain the information required in GP5.8.3.

GP5.8.5 Samples will be reviewed and approved by the Engineer. Such review and approval shall not relieve the Contractor from its responsibility to complete Work in a timely manner and in compliance with the requirements of the Contract Documents.

GP5.8.6 One sample will be returned to the Contractor by the Engineer. Returned samples will be noted as "Approved" or "Rejected" with the reasons for rejection. Rejected samples shall be corrected and resubmitted to the Engineer in the same manner as the first submittal of samples at no cost to Miami-Dade County.

GP5.8.7 Approval of a sample shall be only for the characteristics and use named in the submittal and shall not be construed to change or modify the requirements of the Contract Documents or relieve the Contractor from its responsibility to adhere to the requirements of the Contract Documents.

GP5.8.8 Before submitting samples, the Contractor shall verify that the materials will be available in the quantities required for the Work. No change or substitution will be permitted after a sample has been approved unless written approval to change or substitute has been given to the Contractor by the Engineer.

GP5.8.9 Rejection of any sample shall be sufficient cause for refusal to consider any further samples of the same brand, make or source.

GP5.8.10 Rejection of any sample shall not provide the Contractor with any claim or cause of action against Miami-Dade County or the Engineer, including, but not limited to, for delay, costs, or damages.

GP5.9 CERTIFICATE OF COMPLIANCE FOR MATERIALS

GP5.9.1 A Certificate of Compliance shall be furnished by the Contractor to the Engineer for each lot of systems, subsystems, components, parts, equipment or other materials supplied to or used by the Contractor for the Work and the Certificate shall clearly identify such materials. The Certificate of Compliance shall be in a form acceptable to the Engineer, shall include any test results pertaining to the materials, shall be signed by a representative of the Supplier, manufacturer or producer of the materials and shall certify that the materials comply in all respects with the requirements of the Contract Documents.

GP5.9.2 Upon the receipt of written permission from the Engineer, the Contractor may use materials prior to required sampling and testing if accompanied by a Certificate of Compliance. Miami-Dade County reserves the right to reject any materials on the basis of the Engineer's review of the Certificate of Compliance.

GP5.9.3 Materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The fact that materials are used on the basis of such Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating materials into the Work which conform to the requirements of the Contract Documents. Materials not conforming to such requirements will be subject to rejection whether installed, completed or not.

GP5.10 QUALITY ASSURANCE

The Contractor shall develop a Quality Assurance Plan (QAP) to describe, establish and implement a quality system in accordance with the Project Quality Assurance Program Plan, the General Provisions herein, and provisions for Quality Assurance set forth in TPN18. The QAP shall be subject to Miami-Dade Transit approval prior to Work commencement. The implementation and maintenance of the QAP will be subject to MDT ongoing review and monitoring. The evaluation results will be considered during the progress payments process as identified in GP8.

END OF SECTION

SECTION GP6 – CONTROL OF WORK

GP6.1 RESPONSIBILITIES OF ENGINEER

GP6.1.1 The Engineer will be Miami-Dade County's representative for the Work until the issuance of the Acceptance Certificate.

GP6.1.2 The Engineer will act on behalf of Miami-Dade County to the extent provided in the Contract Documents, unless modified in writing by Miami-Dade County.

GP6.1.3 All instructions issued by the Engineer shall have the same force and effect as if issued by Miami-Dade County.

GP6.1.4 The Engineer shall have access to the Work at all times and the Contractor shall provide facilities required for safe access to enable the Engineer to perform the Engineer's functions and responsibilities under the Contract Documents.

GP6.1.5 The Engineer will be the interpreter of the requirements of the Contract Documents. The Engineer will, when required by the progress of the Work or at the request of Miami-Dade County, render such interpretations as are necessary for the proper execution of the Work. No provision of GP6.1 shall be found to be in conflict with the procedures for settling claims or disputes set forth in GP4.8, as GP4.8 shall govern.

GP6.1.6 Notwithstanding any provision of the Contract Documents, no contractual relationship exists between the Contractor and the Engineer.

GP6.1.7 The Engineer has the authority to issue a Stop Work Order to stop a specific work activity if, in the Engineer's opinion, the Work is not being executed by the Contractor in accordance with the Contract Documents. Any costs incurred by the Contractor as a result of the issuance of a Stop Work Order shall be paid by the Contractor. Should the Contractor disagree with the issuance of the Stop Work Order, it shall follow the procedures set forth in GP4.8.

GP6.2 CONTRACTOR DOCUMENT CONTROL REQUIREMENTS

GP6.2.1 The Contractor shall establish the necessary procedures to assure effective compliance with the document control

requirements of the Contract Documents or otherwise specified by the Engineer for the preparation, submission and retention of data, drawings, specifications, product data, transmittal letters, telephone log memoranda, meeting minutes, change orders, reports, schedules and other documents (hereinafter the "Contractors Document Control Program").

GP6.2.2 The Contractor's Document Control Program shall be sufficient to allow for Engineer's review and oversight in the following areas:

(A) Technical Documents – to assure car design integrity and a record of the as–built configuration for each Vehicle.

(B) Drawings – to assure car design integrity and to provide the basis for repair, overhaul and retrofit of each Vehicle.

(C) Production Specifications – to assure Contractor's concurrence regarding the manufacturing process which shall translate the Vehicle design from a paper–defined form into an operable Vehicle.

(D) Retrofit – to assure Miami-Dade County–approved modification of Vehicles provided under this Agreement as may be required during the warranty or reliability periods.

(E) Drawing Records – to assure that the Vehicle design shall be ultimately defined in its final as–built configuration.

(F) Design Reviews – to assure design concurrence between the Engineer and the Contractor, regularly scheduled design reviews shall be conducted, at a location to be determined by the Engineer, for the purpose of monitoring progress on a real–time basis. Such concurrence shall not relieve the Contractor from responsibility to comply with all the requirements of the Contract Documents. The Contractor shall submit a design review schedule in accordance with the Contract Documents. The design review schedule shall include the decision–issue subjects of each design review.

GP6.2.3 Prior to the first submission of a drawing to the Engineer, the Contractor shall submit the following procedures for the Engineer's written approval:

(A) Drawing preparation and control;

(B) Change control;

(C) Drawing and part number identification;

(D) Manufacturing control; and

(E) Repair control.

Product and technical data and other documents required by the Contract Documents shall be submitted for the Engineer's review in the same manner as drawings.

GP6.2.4 The Contractor shall employ a system of identifying numbers for data, specifications, drawings and other documents which shall identify all distinct systems, subsystems, components, parts and equipment.

GP6.2.5 The Contractor shall permanently identify all hardware components as specified in the Contract Documents. Such markings shall coincide with engineering data. Equipment nameplates or other identification methods approved by the Engineer shall provide space for several numbers to be added in accordance with the County identification requirements.

GP6.3 CONTRACT DOCUMENTS, DATA AND DRAWINGS

GP6.3.2 Prior to completion of the Work, the Contractor shall provide an approved, conformed final technical specification marked "FINAL CONTRACTOR AS-BUILT SPECIFICATION", with all approved changes and revisions identified and incorporated. The format shall be the same as for the data required to be furnished by the Contract Documents with the addition of:

(A) Drawing number references for systems, subsystems and components;

(B) List of required factory test procedures; and

(C) List of required factory inspection procedures.

GP6.3.3 For all systems, subsystems, equipment and components the Contractor shall provide design disclosure drawings and data,

acceptable to the Engineer, to the level of repairable and replaceable parts including complete system, subsystem, equipment and component and product identification, operating and test data together with drawings portraying the composition of any assembly in terms of subordinate part numbers and the next higher assembly number. The Contractor shall submit as design disclosure drawings, vehicle assembly and subassembly drawings to convey concept, overall assembly, interfaces, systems operations, floor plan, reflected ceiling plan, underfloor and roof equipment arrangement, inside longitudinal sections of both sides of the Vehicle, exterior side elevations of both sides of the Vehicle, elevation views of both ends of the Vehicle and sufficient transverse sections through the car to show all variations in cross section such as windows and at doors. One of the transverse sections shall show an outline of extreme movements permitted by the Vehicle suspension in a failed condition.

GP6.3.4 Prior to the manufacturing of, or the installation of parts in, a Vehicle, all manufacturing, assembly and subassembly drawings for all major systems, subsystems and components shall be submitted by the Contractor to the Engineer for approval. Within ninety (90) days after the issuance of the Notice to Proceed, the Contractor shall provide a list of proposed drawings to be submitted to the Engineer for approval.

GP6.3.5 Prior to Delivery for Acceptance Testing of the first New Metrorail Vehicle to Miami-Dade County, the Contractor shall provide Miami-Dade County with a written retrofit procedure for accomplishing the following work for the Vehicles:

(A) Correction or replacement of parts in accordance with the warranties set forth in the Contract Documents; and

(B) Rework and replacement of parts in accordance with approved changes.

GP6.4 CAR HISTORY BOOK

The Contractor shall provide Miami-Dade County with a Car History Book for each Vehicle at the time of Delivery for Acceptance Testing as required by TPN16.

GP6.5 PERSONNEL FOR THE WORK

GP6.5.1 The Contractor shall secure, at its own expense, all personnel required to perform the Work. Such personnel shall not be employees of MDT, Miami-Dade County, the State, the Federal Government, or the FTA.

GP6.5.2 All personnel engaged in performing the Work shall be fully qualified to perform such Work and all key personnel shall be fluent in English.

GP6.5.3 In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

GP6.5.4 The Contractor shall remove from the performance of the Work any of its or its Subcontractor's or Supplier's personnel assigned to the performance of the Work if Miami-Dade County considers such removal necessary for cause and requests such removal in writing.

GP6.5.5 All key personnel identified in the Pilot Car Personnel Transition Plan (PCPTP) who are responsible for the production of the Pilot Vehicles shall be submitted to the Engineer for approval.

GP6.6 INSPECTION

GP6.6.1 Miami-Dade County and the Engineer shall, at all times, have the right to inspect, and shall have access to, the Work and any portion thereof and the Contractor shall furnish every reasonable facility for ascertaining that the Work is performed in accordance with the requirements of the Contract Documents. The Work and any portion thereof shall be subject to the Engineer's or Miami-Dade County's on–site and off–site inspection.

GP6.6.2 Federal and State governmental entities shall also have access to, and shall have the right to inspect, the Work. State and local officials shall have the right to inspect those portions of the Work that are subject to their jurisdiction. The Contractor shall cooperate with these federal, state and local representatives in the same manner as any Miami-Dade County representative.

GP6.6.3 Inspection, or lack of inspection, approval or acceptance of any portion of the Work shall not relieve or release the Contractor from its obligations to adhere to, and fulfill the requirements of, the Contract Documents, including, but not limited to, the Contractor's warranty, reliability and guaranty obligations. Work not meeting the requirements of the Contract Documents shall be made acceptable to the Engineer. Any portion of the Work may be rejected by the Engineer, notwithstanding that such portion of the Work may have been previously inspected, approved, or accepted or that payment therefore may have been included in a prior pay estimate.

GP6.6.4 Re–inspection of any portion of the Work may be ordered by the Engineer at any time before issuance of the Acceptance Certificate. If such portion of the Work is found to be in accordance with the Contract Documents, Miami-Dade County will pay all costs incurred to perform this inspection, and an equitable adjustment of time, to the extend such re-inspection was not caused by the Contractor. If such portion of the Work is not in accordance with the Contract Documents, Contractor shall pay all costs incurred, including Miami-Dade County costs, to perform this inspection; no adjustment of time will be allotted.

GP6.6.5 The Contractor shall provide for the inspection of all incoming systems, subsystems, components, parts, equipment and other materials to insure their correctness and condition. The Engineer shall be given notice of, and shall have the right to observe, such inspections. Such inspections may utilize statistical sampling per ANSI/ASQC Z1.4 and/or ANSI/ASQC Z1.9, or Contractor shall submit alternative standards which it has verified to be equivalent to those specified herein to the Engineer for approval. Items being inspected shall be identified with corresponding drawing, specification, or other pertinent technical documents. All material certifications and test reports used as the basis for acceptance shall be retained by the Contractor.

GP6.6.6 The Contractor shall assure that all manufacturing processes, fabrication, and other production operations are accomplished under an effective production control system. In–process inspection shall be used to monitor the production control system. Miami-Dade County shall be given notice of, and shall have the right to observe such inspections. The Contractor shall maintain a system for identifying the progressive inspection status of materials, components, subassemblies and assemblies, so that such status is known throughout the

manufacturing, installation, and testing phases. The Contractor's inspection program shall also provide for surveillance to ensure proper handling, storage, preserving, packaging and marking of items during the production process.

GP6.6.7 The Contractor's inspection program shall provide for proper inspection prior to shipment of a Vehicle and other items deliverable to Miami-Dade County in accordance with the Contract Documents. The Engineer shall be given notice of, and shall have the right, to observe the inspection of each Vehicle and other items.

GP6.6.8 The Contractor shall monitor Subcontractor's inspection programs to ensure that services and materials being supplied conform to the Contract Documents.

GP6.6.9 The Contractor shall provide and maintain an inspection program acceptable to the Engineer as specified in TPN17. Records of all inspection work performed by the Contractor shall be kept complete and available to Miami-Dade County and the Engineer during the performance of the Agreement, for a period of four (4) years after the issuance of the Acceptance Certificate. Upon the issuance of the Certificate of Acceptance of Final Inspection for each Vehicle, all sign–off, inspection and test records, changes, reports, orders, modifications and quality assurance data for the Vehicle shall be provided to Miami-Dade County.

GP6.7 IDENTIFICATION OF EMPLOYEES

GP6.7.1 Photo identification badges, which shall be issued by the Contractor and which shall be subject to the Engineer's approval, shall be worn at all times by all Contractor, Subcontractor, and Supplier personnel when on Miami-Dade County's property. The badges shall show the employer's name and employee's name and identification number. Also, all other visitors, when on Miami-Dade County's property, must wear identification badges issued by the Contractor and approved by the Engineer. Such identification must be displayed in a prominent manner on each person while on Miami-Dade County's property. Access to Miami-Dade County's property will be granted only to properly identified representatives of the Contractor, Subcontractors, and Suppliers.

GP6.7.2 The size, complexity and critical nature of Miami-Dade Transit (MDT) necessitates the need to regulate and control access to

numerous departmental facilities in order to protect MDT passengers, employees and property. These regulations involve the issuance of identification badges issued by the Office of Safety and Security for MDT contractor employees performing any service on MDT property. Contractors performing work for more than one (1) day shall be required to display an MDT issued photo identification badge. This identification shall be displayed on their outer most clothing above their waistline.

Applications may be obtained from the Office of Safety and Security located at 111 N.W. 1st Street, 4th Floor, Miami, FL 33128. To obtain additional information regarding contractor identification badges, please contact the Office of Safety Security at (305) 375-4240, Monday through Friday between the hours of 8:00 AM and 5:00 PM local time.

GP6.8 WORKING CONDITIONS AT WORKSITE

GP6.8.1 A portion of the Work may be performed on or along operating Metrorail routes and in performing any such portions of the Work, the Contractor shall follow all applicable Miami-Dade County procedures, rules and instructions. Also, prior to doing any such portions of the Work, the Contractor shall notify, in writing, the Engineer of the proposed nature and schedule for such Work and receive the Engineer's approval to do such Work.

GP6.8.2 The Contractor's attention is directed to the fact that the Work may, of necessity, be performed at times near high voltage feeder cables, signal cables and other wires which may be energized. The Contractor shall always assume that such wires and cables are energized. The Contractor shall take all precautions necessary to avoid in any way contacting or damaging any of these wires, cables or their insulators and supporting structures. The Contractor shall be responsible for the protection of its and any Subcontractor's or Supplier's employees, Miami-Dade County personnel, and the general public from injury due to contact of any person, equipment or materials with such wires and cables, and shall be responsible for the costs incurred in repairing facilities damaged as a result of the performance of the Work.

GP6.9 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

GP6.9.1 The Contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. section 333, and

applicable DOL regulations, " Safety and Health Regulations for Construction " 29 C.F.R. Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

GP6.9.2 Subcontracts – The Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

END OF SECTION

SECTION GP7 – LEGAL RESPONSIBILITIES

GP7.1 LAWS TO BE OBSERVED

The Contractor shall be responsible for keeping itself informed of, and shall comply with all applicable requirements of law, including but not limited to, all applicable international, federal, state and local laws, codes, rules and regulations and any changes thereto which in any manner affect persons engaged or employed in the Work, affect the materials used in the Work, or affect, in any way, the Work, and all such orders and decrees of bodies or tribunals having jurisdiction or authority over the same. The Contractor and its officers, directors, employees, agents, Subcontractors and Suppliers shall indemnify and hold harmless Miami-Dade County and the Engineer, and all of their officers, directors, agents and employees against all claims and liabilities arising from or based upon the violation of any such requirements whether by the Contractor or its officers, directors, employees, agents, Subcontractors or Suppliers. If any discrepancy or inconsistency is discovered in the Contract Documents in relation to any requirements of law, the Contractor shall immediately report the same to Miami-Dade County in writing. However, any increase in price or time or change in the Contract requirements resulting from a change-in-law after Contract award will be negotiated accordingly.

GP7.2 PERMITS

The Contractor shall, without additional expense to Miami-Dade County, be responsible for obtaining any and all licenses and permits necessary for the proper and timely completion of the Work.

GP7.3 NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to: not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract with the County, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of

the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

GP7.4 LABOR PROVISIONS – NONCONSTRUCTION CONTRACTS

GP7.4.1 The Contractor shall comply with section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327–332 and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standard Act)," 29 C.F.R., Part 5.

GP7.4.2 Neither the Contractor nor any Subcontractor shall require or permit, for any part of the Work which may require or involve the employment of laborers or mechanics, any such laborer or mechanic in any work week in which he or she is employed on such portion of the Work to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one–half times the basic rate of pay for all hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such work week, whichever is greater.

GP7.4.3 In the event of any violation of the requirements set forth in subparagraph (b) (1) of 29 C.F.R. Section 5.5, the Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the Contractor and any such Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards employed in violation of the clause set forth in subparagraph (b)(1) of 29 C.F.R. Section 5.5 in the sum of $10 for each calendar day on which such individual was required to work or permitted to work in excess of eight (8) hours or in excess of the standard work week of forty (40) hours without payment of the overtime wages required by subparagraph (b)(1) of 29 C.F.R. Section 5.5.

GP7.4.4 DOT or Miami-Dade County shall, upon their own action, or upon written request of an authorized representative of DOL,

withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or Subcontractor under the Agreement or any other federal contract with the Contractor, or any other federally–assisted contract subject to the Contract Work Hours and the Safety Standards Act which is held by the Contractor, such sums as may be determined to be necessary to satisfy any liabilities of the Contractor or any Subcontractor for unpaid wages and liquidated damages as provided in subparagraph (b)(2) of 29 C.F.R. Section 5.5.

GP7.4.5 The Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the Work and shall preserve such documents for a period of three (3) years from the issuance of the Acceptance Certificate for all laborers and mechanics, including guards and watchmen working on the Work. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly numbers of hours worked, deductions made and actual wages paid. Furthermore, said documents shall be made available by the Contractor or its Subcontractors for inspection, copying or transcription by authorized representatives of Miami-Dade County, FTA, DOT and DOL, and the Contractor or its Subcontractors shall permit such representatives to interview employees during normal working hours.

GP7.4.6 The Contractor and its Subcontractors shall insert in any subcontracts the provisions set forth in GP7.4 and also, a clause requiring the Subcontractors to include said clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by its Subcontractors and lower tier subcontractors with the provisions of GP7.4.

GP7.5 ENVIRONMENTAL CONTROL

GP7.5.1 The Contractor shall comply with all applicable environmental, wildlife and noise law standards, orders or requirements issued pursuant to federal, state or local statute, regulation or ordinance.

GP7.5.2 Hazardous Substances – The Contractor shall bear sole responsibility for, and pay all costs for, the proper and lawful removal, transportation, treatment, storage and disposal of "hazardous substances" and "contaminants", as these terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act, as amended, ("CERCLA"), 42

U.S.C. §§ 9601, et seq., and petroleum and petroleum products. Also, the Contractor shall bear responsibility for the selection of the treatment, and/or the storage or disposal facility, utilized therefore. The Contractor shall provide all certifications for removal and disposal of any hazardous substance.

The Contractor shall fully comply with CERCLA and all state, county or local counterparts to CERCLA. Before providing any notice required under CERCLA, or under any state, county or local counterpart to CERCLA, however, the Contractor shall immediately provide written notice to the Engineer.

GP7.5.3 Water Pollution Control – The Contractor shall comply with all applicable standards, orders and regulations issued pursuant to the Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251, et seq.

GP7.5.4 Air Pollution Control – The Contractor shall comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq.

GP7.5.5 Noise Control – The Contractor shall comply with all applicable OSHA, federal, state, county and local laws and regulations regarding the prevention, control and abatement of noise.

GP7.5.6 Solid and Hazardous Waste – The Contractor shall comply with all applicable requirements of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901, et seq., and any other applicable federal, state, county or local laws and regulations regarding any activities involving or associated with hazardous or solid wastes.

GP7.5.7 Energy Conservation – The Contractor shall comply with all applicable standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321, et seq.

GP7.5.8 Recycled Products – The Contractor shall comply with all applicable requirements of Section 6002 of the Resource Conservation and Recovery Act, (as amended), 42 U.S.C. § 6962, including but not limited to, the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

GP7.6 OFFICIALS NOT TO BENEFIT

GP7.6.1 No member of or delegate to the Congress of the United States shall be given any share or part of the Agreement or any benefit arising therefrom.

GP7.6.2 No Board member, officer, or employee of Miami-Dade County or of a local public body during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in the Agreement or the proceeds thereof.

GP7.7 GRATUITIES AND CONFLICT OF INTEREST

GP7.7.1 The County may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Contract if it is found that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor to any director, officer or employee of the County or its Engineer with a view toward securing a Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of such contract. The County's determination shall be final subject only to judicial review.

GP7.7.2 In the event this Contract is terminated as provided in the contract documents, MDC (Miami-Dade County) shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor.

GP7.7.3 No member, officer or employee of MDC or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit. "Local public body" means the State, any political subdivision of the State or any agency of the State or any political subdivision thereof.

GP7.7.4 No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this Contract or to any benefit arising therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

GP7.7.5 The Contractor or its employees shall not enter into any Contract involving services or property with a person or business prohibited from transacting such business with Miami-Dade County pursuant to Section 2-11.1 of the Code of Miami-Dade County, Florida, known as the "Miami-Dade County Conflict of Interest and Code of Ethics Ordinance."

GP7.7.6 In the event the Contractor, or any of its officers, partners, principals or employees are convicted of a crime arising out of, or in connection with, the work to be done or payment to be made under this Contract, this Contract, in whole or any part thereof may, at the discretion of MDC, be terminated.

GP7.7.7 The rights and remedies of MDC provided in this article are not exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

GP7.7.8 In the event the Contract is terminated as provided in GP7.7, Miami-Dade County shall be entitled to:

(A) Pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Agreement by the Contractor; and

(B) As a penalty, in addition to any other damages to which it may be entitled by law, exemplary damages in an amount (as determined by the County) which shall not be less than three nor more than ten times the costs incurred by the Contractor in providing gratuities to a board member, officer, agent or employee.

GP7.7.9 The rights and remedies of the County, as set forth in GP7.7, shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

GP7.7.10 The Contractor represents that:

(A) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.

(B) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement

is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

(a) Is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this agreement relates or in any portion of the revenues; or

(b) Is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.

(C) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

(D) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

(E) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the

attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

GP7.8 FEDERAL, STATE, LOCAL AND OTHER TAXES

GP7.8.1 Except as may be otherwise provided by the Agreement, the Contract Sum shall include all federal, state, local, and foreign taxes, fees and duties, and the Contractor shall be solely responsible for the payment thereof. The Contractor's attention is directed to the fact that materials and supplies necessary for the completion of this Contract are subject to the Florida Sales and Use Tax, in accordance with Section 212.08, Florida Statutes, as amended. The Contractor shall not collect taxes upon making delivery to the County.

GP7.8.2 Miami-Dade County, upon request of the Contractor, and where appropriate, will furnish to the Contractor appropriate evidence to establish exemption from any taxes, fees or duties which may be applicable to the Agreement and from which Miami-Dade County is exempt. Appropriate evidence to establish exemption from any taxes, fees or duties will be furnished only at the discretion of Miami-Dade County.

GP7.9 PATENTS

GP7.9.1 The Contractor shall assume all costs arising from the use of patented materials, equipment, devices, or processes, not furnished by Miami-Dade County, which are used on or incorporated in the Work and shall bear all responsibility for use of such materials and shall indemnify and hold harmless Miami-Dade County, the Engineer, FTA and their duly authorized representatives, officers, directors, employees, and agents, from all suits at law, actions, cost, damage and expense (including reasonable attorney's fees), of every kind or nature, arising from, for, or on account of, the use of any patented materials, equipment, devices or processes.

GP7.9.2 If such materials, equipment, devices or processes are held to constitute an infringement and their use enjoined, the Contractor, at its expense, shall, without prejudice to any other rights of Miami-Dade County or the Engineer:

(A) Secure for Miami-Dade County the right to continue using such materials, equipment, devices or processes by suspension of the injunction or by procuring a license or licenses; or

(B) Replace such materials, equipment, devices or processes with materials, equipment, devices or processes acceptable to Miami-Dade County; or

(C) Modify such materials, equipment, devices or processes so that they become non–infringing, which modification shall not adversely affect the functionality of such materials, equipment, devices or processes, as determined by Miami-Dade County.

GP7.9.3 If any invention, improvement or discovery of the Contractor, any Subcontractor or any Supplier is conceived or first actually reduced to practice during the course of the Agreement, which invention, improvement or discovery may be patentable under the laws of the United States or any foreign country, the Contractor shall immediately notify Miami-Dade County and provide a detailed written report to Miami-Dade County. Miami-Dade County will advise FTA accordingly. The rights and responsibilities of the Contractor, any Subcontractor, any Supplier, Miami-Dade County and FTA, with respect to such invention, improvement or discovery, will be determined in accordance with all applicable federal laws, regulations, policies and any waiver thereof.

GP7.9.4 Nothing contained in GP7.9 shall imply a license to Miami-Dade County or FTA under any patent or be construed as affecting the scope of any license or other right otherwise granted to Miami-Dade County or FTA under any patent.

GP7.10 TECHNICAL DATA AND COPYRIGHTED MATERIALS

GP7.10.1 Miami-Dade County shall have the right to use, duplicate, or disclose Technical Data, as defined in GP7.10.5, in whole or in part, for the sole purposes of operating, maintaining and repairing the Vehicles.

GP7.10.2 With respect to data which is specified to be delivered under the Contact Documents and which is data other than that enumerated in GP7.10.5, the Contractor may seek to protect such data as Limited Rights Data, as defined in GP7.10.6. In order to do so, the Contractor, prior to disclosure, shall identify

to Miami-Dade County, in writing, all such data being proposed by it to be Limited Rights Data, along with sufficient evidence to support such proposal. Miami-Dade County will, within twenty (20) days of receipt of the Contractor's proposal, inform the Contractor, in writing, of the identified data which Miami-Dade County agrees to designate as Limited Rights Data. As to designated Limited Rights Data, Miami-Dade County shall have the right to use, duplicate or disclose Limited Rights Data, in whole or in part, with the express limitation that such Limited Rights Data shall not, without the written permission of the party furnishing such data:

(A) Be released or disclosed, in whole or in part, outside Miami-Dade County, except as may be required under applicable law, regulation or rule or by order of court.

(B) Be used by a party other than Miami-Dade County except for emergency repair, overhaul work or safety purposes; provided that such party shall not further use, release or disclose such Limited Rights Data. Miami-Dade County shall not, however, be liable to the Contractor or others for any action, claim or injury arising out of, or as a result of, a third party's use, release or disclosure of Limited Rights Data disclosed to Miami-Dade County by the Contractor or others.

GP7.10.3 As to the data which is approved by Miami-Dade County as Limited Rights Data, the Contractor shall mark all such data with a legend which suitably recites the limitations set forth in GP7.10.2. To the extent the Contractor does not designate data as Limited Rights Data, or does not provide the restrictive markings on the data, then Miami-Dade County may treat the data as unrestricted data pursuant to GP7.10.1. Nothing herein, however, shall impair the right of Miami-Dade County to use data similar or identical to any Limited Rights Data, which data is acquired from other sources or which is generally available in the public domain.

GP7.10.4 The Contractor shall notify Miami-Dade County of all devices or processes covered by Technical Data or otherwise disclosed or used by or for Miami-Dade County pursuant to the Agreement which are the subject of patents owned by the Contractor, any Subcontractor or any Supplier and all appropriate patent markings shall be included on such devices or on relevant Technical Data.

GP7.10.5 The term "Technical Data" shall include all "Subject Data" as defined in GP7.10.8. Examples of Technical Data shall include, but not be limited to, the following:

(A) Any manuals or instructional materials prepared for installation, operation, maintenance, or training purposes related to the Work.

(B) Materials pertaining to end items, components, or processes which were prepared for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

(C) Other materials which have been, or are, normally furnished without restriction by the Contractor, Subcontractor or Supplier.

(D) Other specifically described materials which the parties have agreed will be furnished without restriction.

GP7.10.6 The term "Limited Rights Data" shall mean data that embodies trade secrets or constitutes confidential or privileged commercial or financial information, to the extent that such data pertains to items, components, or processes developed at private expense.

GP7.10.7 The Contractor agrees to and does hereby grant to the County, and its directors, officers, agents, and employees acting within the scope of their official duties, a royalty–free, nonexclusive and irrevocable license throughout the world for the County to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to so do, all Technical Data now or hereafter covered by copyright as it relates to the operation, maintenance, upgrade and retrofit of equipment furnished in whole or in part through the Contract. Such copyrighted matter shall not be included in Technical Data furnished hereunder without the written permission of the copyright owner for the County to use such copyrighted matter in the manner herein described. The Contractor shall notify the County, in writing, of each notice or claim of copyright infringement or infringement of other intellectual property rights received by the Contractor with respect to any Technical Data delivered hereunder.

GP7.10.8 (A) The term "Subject Data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered pursuant to the Contract

Documents. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design–type documents; machine forms such as magnetic storage media, punched cards, magnetic tape or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports catalog item identifications and related information. The term does not include financial reports, costs analyses and similar information incidental to contract administration.

(B) The following restrictions apply to all Subject Data first produced in the performance of the Agreement:

(1) Except for its own internal use, the Contractor may not publish or reproduce such data, in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of Miami-Dade County, until such time as Miami-Dade County may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to agreements with academic institutions.

(2) As authorized by 49 C.F.R., Part 18.34, FTA reserves a royalty–free nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Government purposes:

(a) Any work developed under a grant, cooperative agreement, sub–grant, sub–agreement or third party contract, irrespective of whether or not a copyright has been obtained; and

(b) Any rights of copyright to which Miami-Dade County, the Contractor, any Subcontractor or any Supplier purchases ownership with federal assistance.

(C) When FTA provides assistance for a contract involving planning, research, development or a demonstration, FTA's intent is to increase the body of mass

transportation knowledge, rather than to limit the benefits of the project to those parties that have participated therein. Therefore, the Contractor understands and agrees that, in addition to the rights set forth in GP7.10.8 (B)(2), FTA may make available to any FTA recipient, sub–grantee, sub–recipient, contractor, third party contractor or third party subcontractor, either FTA's license in the copyright to the Subject Data derived under the Agreement or a copy of the Subject Data first produced under the Agreement.

(D) GP7.10.8 (A) through (C) are not applicable to material furnished to the Contractor by Miami-Dade County or FTA and incorporated in the Work; provided that such incorporated material is identified by the Contractor at the time of the performance of the portion of the Work in question.

(E) In the event that the Work is not completed, all data developed under the Agreement shall become Subject Data and shall be delivered as Miami-Dade County may direct.

GP7.10.9 The Contractor shall indemnify and hold harmless, Miami-Dade County, FTA and their directors, officers, agents and employees against any liability, including costs, expenses and attorney's fees, resulting from any willful or intentional violation by the Contractor or its Subcontractors or Suppliers of proprietary rights, copyrights or right of privacy, arising out of the publication, translation, reproduction, delivery, use or disposition of any data or drawings furnished under the Agreement.

GP7.11 ENTIRE AGREEMENT

All the agreement between Miami-Dade County and the Contractor is included in the Contract Documents and no warranties, expressed or implied, representations, promises, or statements have been made by Miami-Dade County unless set forth therein in writing and no change or waiver of any provision in the Contract Documents shall be valid unless made in writing and executed by Miami-Dade County.

GP7.12 AGENT TO ACCEPT SERVICE

During the performance of this Agreement and for a period of four (4) years after the issuance of the Acceptance Certificate, the Contractor shall maintain, within Miami-Dade County, Florida, an agent to accept, on its behalf, notice or

service of any legal process and shall keep Miami-Dade County advised of such agent's name and address. The Contractor shall submit a letter to the County titled "Contractor Agent to Accept Service" and submit it to the Contracting Officer 10 days after NTP.

GP7.13 ACCESS TO AND RETENTION OF DOCUMENTS

GP7.13.1 The Contractor shall provide Miami-Dade County, FTA, the Comptroller General of the United States, the State of Florida, Miami-Dade County, and any of their authorized representatives access to any work, books, documents, papers and records of the Contractor which pertain or relate to this Agreement or the Work for the purposes of making audits, examinations, excerpts and/or transcriptions during the performance of the Work and for a period of four (4) years after the date of the issuance of the Acceptance Certificate, except in the event of litigation or settlement of claims regarding or arising from the performance of this Agreement or the Work, in which case the Contractor shall maintain all such documents until all such litigation or settlement of claims have been fully completed and all appeals or exceptions exhausted.

GP7.13.2 The Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy any documents pertaining or relating to this Agreement or the Work.

GP7.13.3 Upon the completion of the periods set forth in GP7.13.1, the Contractor shall not destroy any such documents and data without first offering them, free of charge, to Miami-Dade County.

GP7.13.4 The Contractor shall include, or have included, the requirements of GP7.13 in all subcontracts of any tier.

GP7.14 UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES

GP7.14.1 AFFIRMATIVE ACTION OBLIGATION

(A) Policy. It is the policy of the Department of Transportation and Miami-Dade County that DBE Contractors as defined in 49 CFR Part 26 and this Provision shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal Funds under this project. Consequently, the DBE requirements of 49 CFR Part 26 apply to this project.

(B) DBE Obligation. The Contractor agrees to ensure that DBE Contractors as defined in 49 CFR Part 26 and this Provision have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal Funds provided under this project. In this regard the Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 and this Provision to ensure that DBE Contractors have the maximum opportunity to compete for and perform contracts. The Contractor shall not discriminate on the basis of race, color, national origin, sexual orientation, or sex in the award and performance of DOT-assisted contracts.

All determinations of compliance or non-compliance of the Contractor with the requirements of this Provision, and of the appropriate consequences of non-compliance, shall be final and binding, except for administrative reconsideration from an adverse decision by MDC as provided in Section 26.53. All determinations shall be final and the result is not administratively appealable to the U.S. Department of Transportation. Nothing in this Provision shall be construed to diminish the legal responsibility or authority of MDC.

GP7.14.2 STATED GOAL

A "Stated Goal" is to have portions of the Work under the contract performed by qualified DBE firms owned and controlled by individuals who are socially or economically disadvantaged for prices totaling not less than the percentage of the contract price set out in the Bid/Price Proposal Form. For the purposes of DBE participation for this contract, the Stated Goal is established by the Transit Vehicle Manufacturer in its DBE submittal made directly to the FTA.

GP7.15 AMERICANS WITH DISABILITIES ACT

The Contractor shall comply with, and assure, that the Work complies with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.; 49 U.S.C. § 5301(d); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; and all corresponding or similar state, county, or local laws, codes, rules, and regulations.

GP7.16 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

GP7.16.1 The applicable provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, shall apply to this Agreement. Upon execution of the Agreement, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Agreement or the FTA assisted project for which this Agreement is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Government reserves the right to impose the penalties of the Program Fraud Civil Remedies on the Contractor to the extent the Government deems appropriate.

GP7.16.2 The Contractor shall include, or have included, the requirements of GP7.16 in all subcontracts of any tier.

GP7.17 USE OF MIAMI-DADE NAME IN CONTRACTOR ADVERTISING OR PUBLIC RELATIONS

GP7.17.1 The Contractor shall not publish, or allowed to be published, in any advertisements, public relations programs or other documents, any information or data related to this Agreement or the Work, until after the Contractor has submitted such proposed document to, and received prior written approval from Miami-Dade County.

GP7.17.2 The Contractor shall include, or have included, the requirements of GP7.17 in all subcontracts of any tier.

GP7.18 CARGO PREFERENCE

GP7.18.1 The Contractor shall use privately owned United States–flag commercial vessels to ship at least fifty (50) percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Agreement to the extent such vessels are available at fair and reasonable rates for United States–flag commercial vessels.

GP7.18.2 The Contractor shall furnish within twenty (20) working days following the date of loading for shipments originating within the

United States or within thirty (30) working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on–board" commercial bill–of–lading in English for each shipment of cargo described in the preceding subparagraph to the Division of National Cargo, Office of Markets Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Contractor in the case of a subcontractor's bill–of–lading).

GP7.18.3 The Contractor shall include, or have included, the requirements of GP7.18 in all subcontracts of any tier when the subcontract may involve the transport of equipment, material or commodities by ocean vessel.

GP7.19 FLY AMERICA

GP7.19.1 International air transportation of any persons involved in or property acquired for this Agreement shall be provided by U.S.–flag air carriers to the extent service by these carriers is available, as required by the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and in accordance with U.S. General Services Administration regulations pertaining to the use of United States flag air carriers, 41 C.F.R. § 301–3.60(b).

GP7.19.2 The Contractor shall include, or have included, the requirements of GP7.19 in all subcontracts of any tier.

GP7.20 PRIVACY ACT

The Contractor shall comply with the Privacy Act of 1974, 5 U.S.C. § 552a, and the regulations thereunder.

GP7.21 GOVERNING LAW

Unless otherwise specifically stated in the Contract Documents, the Agreement shall be governed by the laws of the State of Florida as they may from time to time be in effect, without giving effect to its conflicts of law provisions.

GP7.22 INSPECTOR GENERAL REVIEW

GP7.22.1 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW

A. INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL REVIEW

Pursuant to Miami-Dade County Administrative Order 3-20 and in connection with any award issued as a result of this Solicitation, the County has the right to retain the services of an Independent Private Sector Inspector General ("IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the selected Proposer shall make available, to the IPSIG retained by the County, all requested records and documentation pertaining to this Solicitation or any subsequent award, for inspection and copying. The County will be responsible for the payment of these IPSIG services, and under no circumstance shall the Proposer's cost/price for this Solicitation be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Proposer, its officers, agents, employees and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities and performance of the selected Proposer in connection with this Solicitation or any contract issued as a result of this Solicitation. The terms of this provision are neither intended nor shall they be construed to impose any liability on the County by the selected Proposer or third party.

B. MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW
According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below.

GP7.23 BUSINESS APPLICATION

The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. It is the responsibility of the Contractor to file the appropriate Vendor Application and to update the Application file for any changes for the duration of this Agreement, including any option years.

Section 2–11.1(d) of Miami-Dade County Code as amended by Ordinance 00–1, requires any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any

contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579–2593.

GP7.24 LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

(A) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.

(B) Environmental Protection Agency (EPA), as applicable to this Contract.

(C) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.

(D) "Conflicts of Interest" Section 2–11 of the County Code, and Ordinance 01–199.

(E) Miami-Dade County Code Section 10–38 "Debarment".

(F) Miami-Dade County Ordinance 99–5, codified at 11A–60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.

(G) Miami-Dade County Ordinance 99–152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

(H) Miami-Dade County Code of Business Ethics; Section 2-8.1(i) Code of Miami-Dade County.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

GP7.25 CONFLICT OF INTEREST

The Contractor represents that:

(A) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.

(B) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

i. Is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

ii. Is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.

(C) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

(D) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

(E) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

GP7.26 PREVENTION OF DRUG AND ALCOHOL MISUSE

The Contractor shall comply with the Department of Transportation's regulations on the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations (49 CFR Part 655). As a recipient of Federal financial assistance, the Miami-Dade Transit (MDT) is required to insure complicity from all contractors performing safety-sensitive functions.

Safety-sensitive functions are defined as any of the following duties:

- Operating a revenue service vehicle, including when not in revenue service.
- Operating a non-revenue service vehicle when a commercial drivers license is required.
- Controlling dispatch or movement of a revenue service vehicle.
- Maintaining a revenue service vehicle or equipment used in revenue service, unless the recipient receives section 18 funding and contracts out such services.
- First line supervisors of anyone operating, controlling, and maintaining the movement of revenue and non-revenue vehicles.
- Firearm bearing police and security personnel.

Accordingly, the Contractor agrees to establish and implement a drug and alcohol-testing program that complies with 49 CFR Parts 655 and 40. The Contractor shall permit any authorized representative of the United States DOT or its operating administrations, the State Oversight Agency of Florida, or the Miami-Dade Transit, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49

CFR Part 655 and review the testing process.

The Contractor agrees further to certify its compliance with 49 CFR Parts 655 and 40 on a quarterly and annual basis and submit the Management Information System (MIS) report before February 15th of each year. The report shall be submitted to the following address with a copy of the transmittal to the Engineer.

Miami-Dade Transit Office of Civil Rights
Attn: Drug and Alcohol Compliance Officer
701 NW 1st Court, 17th Floor
Miami, FL 33136

To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

The Contractor agrees to submit within 30 days following the Notice to Proceed (NTP) a copy of its manual delineating its 49 CFR 655 compliant drug and alcohol policy and implementation of its testing program.

The Contractor understands agrees that failure to submit the required policy documents within the allotted time frame may result in the suspension of business activity. Following the suspension of business activity, the Contractor shall be given a reasonable amount of time to submit the necessary reports. If the Contractor does not submit the required information within the allotted time frame this Contract may be declared null and void.

GP7.26.1 PRIVACY

Should the Contractor, its subcontractors or its employees administer any system of records on behalf of the County or Federal Government, the following terms and conditions are applicable:

(A) The Contractor agrees:

(1) To comply with the Privacy Act of 1974, 5 U.S.C. & 552a (the Act) and regulations thereunder, when performance under the contract involves the design, development, or operation of any system of records on individuals to be operated by the Contractor, its subcontractors or employees to accomplish a Government function;

(2) To notify the Government when the Contractor anticipates operating a system of records on behalf of the

Government in order to accomplish the requirements of this Contract, if such system contains information about individuals, which information will be retrieved by the individual's name or other identifier assigned to the individual. A system of records subject to the Act may not be employed in the performance of this Contract until the necessary approval and publication requirements applicable to the system have been carried out. The Contractor agrees to correct, maintain, disseminate, and use such records in accordance with the requirements of the Act, and to comply with all applicable requirements of the Act;

(3) To include the Privacy Act Notification contained in this Contract in every subcontract solicitation and in every subcontract when the performance of work under that proposed subcontract may involve the design, development, or operation of a system of records on individuals to be operated under the Contract to accomplish a Government function; and

(4) To include this clause, including this paragraph, in all subcontracts under which work for this Contract is performed or which is awarded pursuant to this Contract or which may involve the design, development, or operation of such a system of records on behalf of the Government.

(B) For purposes of the Privacy Act, when the contract involves the operation of a system of records on individuals to accomplish a Government function, the Contractor, subcontractor and any of their employees are considered to be an employee of the Government with respect to the Government function. The requirements of the Act, including the civil and criminal penalties shall not apply with regard to contracts effective prior to September 27, 1975. In addition, failure to comply with the provisions of the Act or of this clause will make this Contract subject to termination.

(C) The terms used in the foregoing sections have the following meanings:

(1) "Operation of a system of records" means performance of any of the activities associated with maintaining the system of records on behalf of the

Government including the collection, use and dissemination of records.

(2) "Record" means any item, collection, or grouping of information about an individual that is maintained by the Contractor on behalf of the Government, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(3) "System of records" on individuals means a group of any records under the control of the Contractor on behalf of the Government from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual.

GP7.27 INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:

(A) The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F or any revisions thereto, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all DOT or FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests which would cause the Authority to be in violation of the FTA terms and conditions.

(B) The Contractor agrees to include this clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

GP7.28 WALSH – HEALEY PUBLIC CONTRACTS ACT (DEC 1996)

If this Contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(A) All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference.

These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may be hereafter, be in effect.

(B) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped worker may be employed at less that the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fir Labor Standards Act (41 U.S.C. 40).

GP7.29 DAVIS – BACON ACT, AS AMENDED

40 U.S.C. §§ 3141 *et seq.*, pursuant to FTA enabling legislation requiring compliance with the Davis – Bacon Act at 49 U.S.C. § 5333(a), and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5.

END OF SECTION

SECTION GP8 – PROSECUTION AND PROGRESS

GP8.1 WORK TO BE PERFORMED BY CONTRACTOR

The Contractor shall be responsible for all of the Work to be performed on the Contract by its own personnel and all subcontractors and suppliers.

GP8.2 ASSIGNMENT

The Agreement or the performance thereof may not be assigned, sold, transferred or disposed of in any manner by the Contractor, except upon the written consent of Miami-Dade County.

GP8.3 SUBCONTRACTS

GP8.3.1 The Contractor may not contract or subcontract any of the Work, which agreement, subcontract or purchase order has a value in excess of $2,000,000 without the prior written approval by Miami-Dade County of the proposed agreement, subcontract or purchase order, which approval shall be provided at Miami-Dade County's sole discretion.

GP8.3.2 Additionally, the Contractor may not contract or subcontract any of the Work, which agreement, subcontract or purchase order has a value in excess of $2,000,000 to any proposed Subcontractor or Supplier other than the entity or person identified as the proposed prime Subcontractor or Supplier for said portion of the Work in the Contractor's Proposal upon which the Agreement is awarded, or in the Contractor's approved Management Plan (TPN16), without the prior written approval by Miami-Dade County.

GP8.3.3 Prior to Miami-Dade County's review of a proposed agreement, subcontract or purchase order, or proposed Subcontractor or Supplier, the Contractor shall provide Miami-Dade County with the name of the proposed Subcontractor or Supplier, the task to be performed by the proposed Subcontractor or Supplier, and the qualifications of the proposed Subcontractor or Supplier to perform said portion of the Work.

GP8.3.4 The Contractor shall provide to Miami-Dade County an executed Certification of Proposed Subcontractor from each proposed subcontractor for the Work. The eligibility of a proposed subcontractor to participate in the Work will be

determined, in part, in accordance with the applicable FTA regulations.

GP8.3.5 The Contractor shall require and ensure that the Certifications Regarding Lobbying is executed by each Subcontractor for all Subcontracts exceeding $100,000 at any tier and, if applicable, the Disclosure of Lobbying Activities form. All such forms shall be forwarded to Miami-Dade County, whereupon, Miami-Dade County will forward same to the FTA in accordance with 49 CFR, Part 20.

GP8.3.6 The Contractor shall not knowingly enter into any lower tier transactions with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in the Agreement, unless authorized in writing by Miami-Dade County. Furthermore, the Contractor shall include the provisions of this paragraph, without modification, in all lower tier contracts and in all solicitations for lower tier contracts.

GP8.3.7 The Contractor shall at a minimum include, or have included, in all subcontracts or purchase order in excess of $2,000,000 the following provisions of the General Provisions: 4.8.1, 4.8.9, 7.1, 7.3, 7.4, 7.5, 7.6, 7.7, 7.9, 7.10, 7.13, 7.14, 7.15, 7.16, 7.17, 7.18, 7.19, 7.20, 7.21, 7.24, 7.25, 7.26, 8.3.5, 8.3.6, 8.11, 8.12, and 8.13; or any other provisions that directly or indirectly impact the subcontractor's or other entity's ability to perform under this Contract; and advise subcontractors and other entities of GP 3.3.1 language that allows the subcontractor or other entity to receive payment from the Payment Bond Surety in the event of Contractor's failure to pay.

The Contractor shall provide to Miami-Dade County sufficient evidence of the inclusion of such provisions in its subcontracts.

GP8.3.8 Nothing contained in the Agreement shall create, or be construed as creating, any contractual relationship between any Subcontractor or any Supplier and Miami-Dade County.

GP8.3.9 The Contractor shall be responsible to Miami-Dade County for acts and omissions of actions in relation to its own employees, and for the acts and omissions of any Subcontractor or any Supplier in relation to its employees. The Contractor shall also be responsible for the coordination of the work of all Subcontractors and Suppliers. When a portion of the Work which has been subcontracted by the Contractor is not prosecuted in accordance with the Contract Documents, the

Subcontractor or Supplier shall be immediately replaced upon request of Miami-Dade County and shall not again be employed on the Work.

GP8.3.10 Miami-Dade County or the Engineer shall not be responsible for settling any differences between the Contractor and its Subcontractors or Suppliers.

GP8.4 NOTICE TO PROCEED

A written Notice to Proceed will be delivered to the Contractor as soon as practicable after execution of the Agreement and approval of any bonds or Letters of Credit and insurance certificates or policies by Miami-Dade County. The Contractor shall commence work within fourteen (14) days after receiving the Notice to Proceed and shall thereafter diligently prosecute the Work to completion.

GP8.5 PRE–COMMENCEMENT CONFERENCE

A Pre–Commencement Conference will be held within thirty (30) days after Notice to Proceed for the purpose of discussing with the Contractor all essential matters pertaining to the successful prosecution and completion of the Work as described in TPN16.

GP8.6 TIME OF COMPLETION

GP8.6.1 The Contractor shall complete all and any designated portion of the Work, which shall include, but is not limited to, the completion of all required tests, all reliability periods, the five (5) year warranty period for each of the New Metrorail Vehicles and spare parts, as set forth in GP5.2.4(A)(3), and all necessary repairs and modifications resulting from the tests, the reliability periods and warranties, within the schedule requirements of the issuance of the Notice to Proceed, unless revised by Change Order, and shall complete certain specified portions of the Work pursuant to the interim milestones set forth in GP8.6.8 and in the Engineer approved Project Schedule. Time shall be computed starting with the first day after receipt of the Notice to Proceed and ending with the last day of the Work.

GP8.6.2 Subject to the additional requirements of GP4.6 and GP8.6.3, adjustments in Time of Completion shall only be allowed if the work being delayed, or additional work included in a Change Order, falls on the critical path of the Project Schedule or alters such critical path so as to extend the time required for completion of the Work. The critical path shall be determined

from the latest approved version of the Contractor's Project Schedule required by GP8.8.

GP8.6.3 Subject to the additional requirements of GP4.6 and GP8.6.2, the Contractor may only be granted or entitled to an adjustment in Time of Completion and not assessed liquidated damages for a delay in the completion of the Work:

(A) Due to a Change Order issued pursuant to GP4.6; or

(B) Due to unforeseen causes beyond the control and without the fault or negligence of the Contractor (force majeure) such as those caused by act of God or of a public enemy, acts of terrorism, fire, floods, unusually severe weather, epidemics, quarantine restrictions, strikes and other work stoppage caused by a labor dispute, shortage of materials and freight embargoes, provided that the Contractor has taken reasonable precautions to prevent delays due to such causes.

Unusually severe weather is defined as adverse occurrences beyond the weather norms substantiated by the U.S. Department of Commerce in their Local Climate Data as published by the National Oceanic and Atmospheric Administration–Environmental Data Service, in its periodic reports and annual summary. Occurrence of unusually severe weather shall be recorded on the Project Schedule only after a finding of merit by Miami-Dade County.

The Contractor shall not be entitled, nor shall an adjustment in Time of Completion be granted, for a delay caused by a shortage of materials, except Miami-Dade County–furnished materials, unless the Contractor furnishes to the Engineer documentary proof that the Contractor has diligently made every effort to obtain such materials from all known and reasonable sources. The Contractor shall also submit proof, in the form of critical path analysis data required by GP8.8, showing that the inability to obtain such materials when originally planned did in fact cause a delay in the Time of Completion which delay could not be eliminated or reduced by revising the sequence of the Contractor's operations. Only the physical shortage of material shall be considered under this provision as a cause for an adjustment in Time of Completion. No consideration

shall be given to any claim that material could not be obtained at a reasonable, practical or economic cost.

(C) Delays caused by other contractors not under contract with the Contractor for this Work.

(D) Delays caused by Miami-Dade County through no fault of the Contractor.

GP8.6.4 As an express condition precedent for the Contractor to seek to receive a change in Time of Completion, the Contractor shall notify the Engineer in writing of the alleged causes for delay within fifteen (15) days from the beginning of any such delay. Failure by the Contractor to provide such notice shall be sufficient and valid cause for Miami-Dade County to deny the Contractor's request for an adjustment in Time of Completion.

GP8.6.5 Within thirty (30) days after the end of a delay described in GP8.6.3, the Contractor shall furnish the Engineer with detailed information concerning the circumstances of the delay, the number of days actually delayed, the appropriate Contract Document references and the measures taken to prevent or minimize the delay. Failure by the Contractor to submit such information shall be sufficient and valid cause for Miami-Dade County to deny the Contractor's request for an adjustment in the Time of Completion. After receipt of such information from the Contractor, Miami-Dade County will decide the length of the adjustment in Time of Completion, if any, to be granted to the Contractor, which decision shall be final and binding upon the Contractor.

GP8.6.6 If the prosecution of a portion of the Work is delayed, other portions of the Work unaffected by the delay shall be diligently prosecuted either to completion or until the prosecution of the delayed portion of the Work can be resumed.

GP8.6.7 Time is of the essence in the performance of the Work.

GP8.6.8 The following are the interim milestones which shall be met by the Contractor for the New Metrorail Vehicles and the related portions of the Work and in order to avoid the assessment of liquidated damages:

Description of Milestone	Months after NTP
1. Management Plan, Quality Assurance Plan	2
2. Release of Subcontracts for all major subsystems	3
3. Completion and Acceptance of all PDRs	6
4. Completion and Acceptance of all IDRs	12
5. Completion and Acceptance of all FDRs	16
6. Release of Vehicle Designs	18
7. Completion and Acceptance of FAIs	26
8. Delivery of First 3 Married Pairs (Pilot Cars)	34
9. Delivery of Initial Spare Parts and Special Tools	30
10. Delivery and Approval of Draft Manuals	32
11. Delivery and Approval of Instructor & Student Training Guides	32
12. Completion of All Testing of First 3 Married Pairs, excluding Consist Level Testing.	38
13. Commencement of Training	34
14. Delivery of Married Pairs 4-6	41-42
15. Delivery of Married Pairs 7-18	43-46
16. Delivery of Married Pairs 19-36	47-52
17. Delivery of Married Pairs 37-54	53-58
18. Delivery of Married Pairs 55-66	59-63
19. Delivery of Final Spares and Special Tools	68
20. Completion of all Work	123

GP8.7 LIQUIDATED DAMAGES

GP8.7.1 In the event a Vehicle or related equipment is not completed and/or delivered to Miami-Dade County, or the Work or a portion thereof is not completed, with the exception of Reliability Testing, within the number of days or weeks set forth in GP8.6 or the Engineer approved Project Schedule, damage will be sustained by Miami-Dade County. In such event, the Contractor shall pay to Miami-Dade County, as liquidated damages and not as a penalty, the sums set forth below for every day or fraction thereof of delay in completing the referenced portion of the Work and failing to meet the corresponding interim milestone or the Time of Completion. The Contractor shall pay the referenced sums as fixed, and agreed to, liquidated damages, and not by way of a penalty, to Miami-Dade County and Miami-Dade County may deduct the sum of liquidated damages from

any monies due or that become due the Contractor under the Agreement or under any other contract with Miami-Dade County, or if such monies are insufficient, the Contractor or its Surety or Sureties shall pay to Miami-Dade County any deficiencies in such monies within thirty (30) days of written notice by Miami-Dade County. The remedies provided in GP8.7 shall be Miami-Dade County's sole and exclusive monetary remedy for delay.

Milestone	Amount Per Day/Fraction Thereof
Delivery of each of the three (3) Pilot Married Pairs to the County	$1,653 per Married Pair
Delivery of each of the remaining Married Pairs to the County including Option Vehicles	$1,653 per Married Pair

GP8.7.2 In no event will the total liquidated damages paid by the Contractor to Miami-Dade County pursuant to GP8.7 exceed five percent (5%) of the Contract Sum, as it may have been changed from time to time in accordance with the Contract Documents.

GP8.7.3 Liquidated Damages shall be collectable in accordance with the Board of County Commissioner's Resolution R-173-08, 02/19/2008: Mandatory Collection of Contract Penalties.

GP8.8 PROJECT SCHEDULE

GP8.8.1 Within thirty (30) days after receipt of the Notice to Proceed, the Contractor shall finalize and submit for written approval by the Engineer, and in accordance with Technical Provisions, a Project Schedule which shall: specifically and expressly incorporate each and all of the applicable interim milestones set forth in, and the requirements of, GP8.6; show key design, manufacture, delivery, installation, test, and training milestones; and highlight significant events for the Project.

GP8.8.2 (A) Five (5) reproducible copies of the Project Schedule and each update thereto shall be submitted to the Engineer.

(B) Project Schedule sheets shall not be larger than twenty–two inches (22") by thirty–four inches (34").

(C) Approval of the Project Schedule, or any updates thereto, by the Engineer, shall, in no way, waive any requirements of the Contract Documents nor excuse the Contractor from any obligations under the Contract Documents. Upon approval by the Engineer in writing, the approved Project Schedule shall then be the schedule to be used by the Contractor for planning, organizing, and directing the Work and reporting progress.

(D) The Contractor shall submit for the Engineer's approval an updated Project Schedule by the tenth (10th) day of each month the Work is being performed. The Project Schedule will be submitted as part of the monthly progress report. The updated Project Schedule shall show progress during the preceding month, including actual start and finish dates for each activity.

(E) Failure of the Contractor to submit the Project Schedule, or updates thereto, within the time limits specified, shall be sufficient cause for Miami-Dade County to withhold the Contractor's progress payments, or any portion thereof, until such delinquent submittal is made.

(F) The Contractor shall execute the Work in accordance with the latest approved Project Schedule. Deviations therefrom shall be submitted to the Engineer for review and written approval. In the event that the progress of items along the critical path is delayed, the Contractor shall revise it's planning as necessary to meet the Time of Completion.

GP8.8.3 (A) For changes to the Contract Documents which could influence the order of all of or portions of the Work, restraints between various activities, or duration time estimated for activities on the Project Schedule, a determination of the impact of such changes on any interim milestone dates or the Time of Completion shall be made in accordance with the Contract Documents.

(B) If a Change Order is issued, the Project Schedule shall be changed, if necessary, to reflect the requirements of the Change Order. Changes to the Project Schedule shall be made no later than the next updating after the issuance of the Change Order.

(C) If the Contractor fails or refuses to submit or include the foregoing revisions within thirty (30) days after the date of change, the Engineer will furnish to the Contractor, at the Contractor's expense, the logic, duration time changes, or both, to be entered into the Project Schedule and used in subsequent updating of reports until such time that the change has been settled or until actual dates supersede the estimated dates. Inclusion of a revision in the Project Schedule and use of revised logic or duration time, or both, whether furnished by the Contractor or by the Engineer, will not be construed as an extension of time to the Time of Completion or as a deviation from any other requirements of the Contract Documents.

GP8.8.4 (A) The Contractor shall submit for approval by the Engineer, within thirty (30) days after receipt of the Notice to Proceed, five (5) reproducible copies of a critical path network analysis utilizing Primavera software. The critical path network analysis shall include a network diagram, and a brief written explanation of the proposed schedule and shall, furthermore, include the following:

(1) A logic diagram in precedence format that clearly depicts the order and interdependencies of planned activities as well as activities by others which affect the Contractor's planning. Activity descriptions shall be included for the starting and completing of each activity and the duration of each. The network diagram shall show such items as submittal and approval of drawings and samples specified, delivery of materials and equipment, and other significant items related to the progress of the Work. The network diagram shall be printed.

(2) Activities shall have a maximum duration of thirty (30) days. Those activities requiring greater than thirty (30) days for completion, shall be discussed and agreed upon between Contractor and the Engineer.

(3) The Contractor shall review information contained in schedules to check logic, perform time calculations and generate reports. For each activity the reports shall show the description, the estimated duration,

earliest starting and finishing dates, latest starting and finishing dates, and float or slack time. Activities, which constitute the critical sequence, shall be identified.

(4) The written explanation shall contain sufficient information to describe the manufacturing and installation process to be used and to enable the County to evaluate the schedule and supporting analysis for validity and practicability.

(5) If the listed starting dates or the listed duration of the performance of an activity delay the completion of the Work or any portion thereof, the delay shall be clearly identified. Reasons for delay shall be given with an explanation of the Contractor's corrective action.

(B) If the critical path network analysis or written explanation is not accepted by the Engineer, the Contractor shall resubmit the rejected items within twenty (20) days after rejection.

(C) Upon receipt of the Contractor's critical path network analysis, the Engineer may request the Contractor's participation in a review conference to appraise and evaluate the proposed schedule. Revisions necessary as a result of the review conference shall be made and the network analysis shall be resubmitted for approval to the Engineer within fifteen (15) days after the conference.

(D) A revised critical path network analysis shall be submitted for approval when one or more of the following conditions occur:

(1) When a Change Order affects the Time of Completion or the sequence of activities; or

(2) When the Contractor desires to change the sequence and interdependencies or duration of planned activities. The revised analysis shall be made in the same form and detail as the original submittal.

GP8.9 PROGRESS REPORTS

GP8.9.1 Progress Report shall be submitted in accordance with the requirements of TPN16.

GP8.9.2 The Contractor shall submit Progress Reports every calendar month during the performance of the Work in accordance with a format approved by the Engineer which shall provide detailed information for the preceding calendar month on the following items, as applicable:

(A) The activities started during the report period and to be started in the next report period;

(B) The activities completed during the report period and those to be completed in the next report period;

(C) Project Schedule deviations and slippage with explanations, a description of their effects on the Work, and plans for correction;

(D) Major problems;

(E) Pending action items requested by the Contractor or the Engineer;

(F) Subcontractor and Supplier status reports;

(G) Log of correspondence for the report period.

(H) Engineering Design Drawings, Manufacturing Drawings and Data submittals;

(I) As–built drawings for completed portions of the Work.

GP8.9.3 Progress photographs or digital images required by GP8.10 shall be included in the monthly Progress Reports, as appropriate, to illustrate typical equipment assemblies, assembly operations, in–plant test setups, installation techniques, and typical in–place installations of all types of equipment furnished.

GP8.9.4 Progress Reports shall be submitted by the tenth (10th) day of the month following the reporting period. Three (3) copies of the

report shall be bound in suitable covers and transmitted to the Engineer. An electronic version should also be provided.

GP8.10 PHOTOGRAPHS OR DIGITAL IMAGES

GP8.10.1 Photographs or digital images (5 megapixel, minimum) shall be submitted as part of the monthly progress reports.

GP8.10.2 The Contractor shall determine the views and the area of the Vehicles to be photographed. A maximum of 20 photographs and minimum of 10 photographs will be provided on a monthly basis with the monthly progress report. Additional photographs will be provided upon request, if required.

GP8.10.3 Each photograph or digital image shall show as much detail of the progress of the Work as possible in the interests of keeping the total number of photographs to a minimum.

GP8.10.4 Each photograph, if conventional, shall be 8" x 10" in size. Three sets of mounted color prints together with one set of negatives of each view shall be submitted to the Engineer within ten (10) days from the taking of the photograph.

GP8.10.5 Photographs or digital images shall be labeled with descriptive information: first line to show the Project Name and Number, then "Miami-Dade County"; second line shall show Agreement Name and Number; third line shall be a descriptive title of the view; and fourth line shall show the date of photograph and Contractor's name.

GP8.11 SUSPENSION OF WORK

GP8.11.1 Miami-Dade County may, without cause, order the Contractor in writing to suspend or interrupt all or any part of the Work. In no single instance will any period of suspension exceed 30 days. Total time for all periods of suspension will not exceed 60 days over the life of the Contract. Suspension of Work applies only to written suspension or interruption orders from the County and does not apply to any other delays or interruptions under the Contract Documents, including GP8.13 or otherwise.

GP8.11.2 If the performance of all or any part of the Work is suspended or interrupted per the written request of the County for less than twenty-two (22) days, the Contractor's sole and exclusive remedies in such an event shall be an extension of time as

determined in accordance with the provisions of the Contract Documents.

If the performance of all or any part of the Work is suspended or interrupted per the written request of the County for more than twenty-one (21) days, the Contractor's sole and exclusive remedies in such an event shall be an extension of time and an adjustment to the Contract Sum as determined in accordance with the provisions of the Contract Documents.

No adjustment in the Time of Completion or the Contract Sum, however, shall be allowed for any such suspension or interruption if:

(A) The performance is suspended or interrupted for a reasonable period of time;

(B) The performance would have been so suspended or interrupted by any other cause, including the fault or negligence of the Contractor; or

(C) An adjustment in the Time of Completion or the Contract Sum is provided for or excluded under any other provision of the Contract Documents.

GP8.11.3 No request for an adjustment in the Time of Completion or the Contract Sum shall be allowed under this provision unless the request is asserted in writing to the Engineer within twenty (20) days after the termination of such suspension or interruption, but not later than the date of the issuance of the Acceptance Certificate.

GP8.12 TERMINATION FOR DEFAULT

GP8.12.1 Wherever in this provision the word "Contractor" appears, it shall also be construed to mean the Surety in case of default and completion of the Agreement by the Surety.

GP8.12.2 If the Contractor fails to begin Work within the time specified in the Notice to Proceed; fails, solely in the reasonable opinion of the County, to perform the Work with sufficient laborers, equipment or materials to ensure the completion of said Work in accordance with the Contract Documents; performs the Work unsatisfactorily in the reasonable opinion of the County; neglects or refuses to remove materials or perform anew any work rejected as defective or unsatisfactory; discontinues the

prosecution of the Work without approval of the County; fails to resume work which has been discontinued or suspended within ten (10) days after notice to do so; becomes insolvent, the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver; the Contractor has failed to obtain the approval of the County where required by this Agreement; the Contractor has failed in the representation of any warranties stated herein; allows any final judgment to stand against it unsatisfied, after all appellate periods have expired, for a period of five (5) working days; makes an assignment for the benefit of creditors; fails or refuses, within ten (10) days after written notice by the County, to make payment or show cause why payment should not be made of any amounts due the County under the Contract Documents or for materials furnished, labor supplied or performed, equipment rentals, and utility services rendered as covered by the Bonds or Letters of Credit; fails to protect, repair or make good any damage or injury to property; for any cause whatsoever, does not, solely in the reasonable opinion of the County, carry on the Work in an acceptable manner; has failed to make prompt payment to subcontractors or suppliers for any Work, unless the Contractor has a good faith basis to assert that the wok performed or materials provided by the subcontractor or supplier was inadequate or unsatisfactory, or fails to perform or adhere to any provision of the Contract Documents, the County, after having given seven (7) days written notice to the Contractor and its Surety of any of the above identified delays, neglects, or defaults on the part of the Contractor, shall be entitled, without invalidating the Agreement, to declare the Contractor in default, take the prosecution of the Work out of the hands of the Contractor, appropriate or use materials and equipment and enter into a new contract or new contracts for the completion of the Work, or any portion of the Work; or may use such other methods as in the County's reasonable opinion will be expedient for the completion of the Work.

GP8.12.3 If the County, pursuant to GP8.12.2, elects to take the prosecution of the Work, or any portion of the Work, out of the hands of the Contractor, the County may, at its option, notify and require the Surety to complete the Work in accordance with the Contract Documents.

GP8.12.4 If the completion of the Work by any of the methods specified above results in financial loss to the County, it may:

(A) Dispose of, in the manner it determines to be in its best interest, any of the equipment or materials it acquired under this provision, without further legal process. Equipment or materials not required for completion of the Work or for the recoupment of loss or legal charges or any balance remaining from the disposition of any materials or equipment after the deduction of losses, costs and any legal charges, including attorneys' fees, by the County shall be turned over to the party legally or equitably entitled thereto;

(B) Deduct from monies due or to become due to the Contractor under the Agreement or any other contract with the County all costs and legal charges, including attorneys' fees, incurred by the County, and the County will credit the Contractor with the balance remaining from any disposal of the equipment or materials; and/or

(C) In the event the costs and legal charges, including attorneys' fees, incurred by the County, less the credits provided for, exceeds the sum which would have been payable under the Agreement for the completed Work, the County may hold the Contractor or its Surety liable to the County for the amount of said excess.

GP8.12.5 In the event the County exercises its right of termination under this provision, the Contractor shall be liable to the County for any re-procurement charges, outstanding warranty claims, its excess costs, including reasonable attorneys' fees, as set forth in GP8.12.4, and, in addition, for liquidated damages, pursuant to GP8.7, for each day until the completion of the Work.

GP8.12.6 If, after the Contractor is terminated under this provision, a determination is made that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued pursuant to GP8.13.

GP8.12.7 The rights and remedies of the County provided in this provision are in addition to any other rights and remedies provided by law or under the Contract Documents.

GP8.12.8 If an Event of Default occurs, in the determination of the County, the County may so notify the Contractor ("Default Notice"),

specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. The County shall allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

GP8.12.9 If it is determined by the County that the provisions of the Contract have not or were not violated by the Contractor, or if it is subsequently found that any termination for default was legally improper, then the termination for default will be treated as if it had been a termination for convenience, and such termination will be compensated in accordance with the provisions of Section GP8.13.

GP8.13 TERMINATION FOR CONVENIENCE OF MIAMI-DADE

GP8.13.1 The Agreement may be terminated by the County in accordance with this provision in whole, or in part, whenever the County determines that such termination is in its best interests. Any such determination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the Agreement is terminated and the date upon which such termination becomes effective.

GP8.13.2 After receipt of a Notice of Termination and except as otherwise directed by the County, the Contractor shall:

(A) Stop work under the Agreement on the date and to the extent specified in the Notice of Termination;

(B) Place no further orders or subcontracts for materials, services or equipment, except as may be necessary for completion of such portion of the Work not terminated;

(C) Terminate all orders and subcontracts to the extent that they relate to the terminated portion of the Agreement;

(D) Assign to the County, in the manner, at the time, and to the extent directed by the County, all of the rights, ownership and interest of the Contractor under the orders and subcontracts so terminated, in which case the County shall have the right, in its sole discretion, to settle or pay any claims arising out of the termination of such orders and subcontracts;

(E) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval of the County, which approval shall be final for all the purposes of this provision;

(F) Transfer ownership and deliver to the County in the manner, at the times, and to the extent directed by the County:

(1) The fabricated or unfabricated parts, work in process, completed work, supplies and other material or equipment procured as a part of, or acquired in connection with the performance of, the portion of the Agreement terminated; and

(2) The completed or partially completed plans, drawings, data, information, and other property which, if the Agreement had been completed, would have been required to be furnished to the County;

(G) Complete performance of such portion of the Agreement as was not terminated by the Notice of Termination; and

(H) Take such action as may be necessary, or as the County may direct, for the protection and preservation of the property related to this Agreement, which is in the possession of the Contractor and in which the County has or may acquire an interest, until the effective date of termination.

GP8.13.3 After receipt of a Notice of Termination, the Contractor shall submit to the County its termination claim, if any, in the form and with the certification prescribed by the County. Such claim shall be submitted promptly but in no event later than one year from the date of termination. The failure of the Contractor to submit its termination claim within the time specified shall preclude the recovery of any costs or damages incurred by the Contractor as

a result of the total or partial termination of the Agreement pursuant to GP8.13.

GP8.13.4 Subject to the provisions of GP8.13, the Contractor and the County may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of the Agreement pursuant to GP8.13, which amount or amounts may include a reasonable allowance for profit on the portion of the Agreement performed; provided, that such agreed upon amount or amounts, shall not exceed the total Contract Sum as reduced by the amount of payment otherwise made and as further reduced by the portion of the Agreement not performed. No claims for lost or anticipated profit shall be allowed for the terminated portion of the Agreement.

GP8.13.5 If an agreement is reached by the Contractor and the County upon the amount to be paid the Contractor by reason of the termination of the Agreement pursuant to GP8.13, the Agreement shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in GP8.13.6, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the County to agree upon the whole amount to be paid to the Contractor by reason of the termination of the Agreement pursuant to GP8.13, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to GP8.13.

GP8.13.6 In the event of submission of a timely termination claim by the Contractor and the failure of the Contractor and the County to agree upon the amount to be paid to the Contractor by reason of a termination pursuant to GP8.13, the County will determine, based on the information available to the County, the amount, if any, due to the Contractor by reason of the termination and will pay to the Contractor the amounts determined as follows:

(A) With respect to all work performed on the terminated portion of the Agreement, prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:

(1) The cost of acceptable work performed, except defective work, and materials delivered;

(2) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in GP8.13.2; and

(3) Reasonable profit for the portion of the Agreement performed but no lost or anticipated profit on the portion of the Agreement not performed.

(B) The reasonable cost of the preservation and protection of property incurred pursuant to GP8.13.2(I).

GP8.13.7 The total sum to be paid to the Contractor under GP8.13 shall not exceed the Contract Sum as reduced by the amount of payments otherwise made and as further reduced by the value of that portion of the Agreement not performed. Except for normal spoilage, and except to the extent that the County shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under GP8.13 the fair value, as determined by the County, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the County, or to a buyer pursuant to GP8.13.2(G).

GP8.13.8 In arriving at the amount due the Contractor under this provision, there shall be deducted:

(A) All payments made to the Contractor by the County applicable to the terminated portion of the Agreement;

(B) Any claim which the County may have against the Contractor in connection with the Agreement; and

(C) The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to GP8.13 and not otherwise recovered by or credited to the County.

GP8.14 ACCEPTANCE, OWNERSHIP, AND RISK OF LOSS

GP8.14.1 When, in the judgment of the Engineer, a portion of the Work has been completed in compliance with the Contract Documents and all applicable tests, inspections, and rework have been completed therefore, the Engineer will recommend to the County that said portion of the Work be accepted. The recommendation of the Engineer will be subject to the approval and acceptance by the County.

GP8.14.2 Notwithstanding any provision of the Uniform Commercial Code or other applicable law, risk of loss and ownership of a Vehicle, system, subsystem, component, part, equipment, or other material or other portion of the Work shall vest in the County when the Vehicle is satisfactorily placed on the rails on the County's property at the Miami-Dade Transit William Lehman Center or other location identified by Miami-Dade Transit, or the system, subsystem, component, part, equipment, or other material is satisfactorily unloaded onto the County's property at the Miami-Dade Transit William Lehman Center or other location identified by Miami-Dade Transit. The Certificate of Acceptance of Final Inspection for a Vehicle or other item of Work will be issued only after each Vehicle and its systems, subsystems, components, parts and equipment or other item of Work has been received by the County and fully and satisfactorily tested, inspected and accepted. The Certificate of Acceptance of Final Inspection for a Vehicle or other item of Work will be issued if the Vehicle or other item of Work is subject to the satisfactory completion of any outstanding Work items or the Vehicle or other item of Work is placed in revenue service.

GP8.14.3 Risk of loss for each New Metrorail Vehicle and the systems, subsystems, components, parts, and equipment therefore, while in transit (including loading and unloading while on County property) or otherwise not located on the County's property, shall be borne by the Contractor.

GP8.14.4 Ownership transferred to the County for any Vehicle, system, subsystem, component, part, equipment, or other material or other portion of the Work shall be absolute, good, marketable, and free and clear of any and all security interests, liens, or encumbrances of any kind or nature. The Contractor shall not pledge, hypothecate, or otherwise encumber the Vehicles, any system, subsystem, component, part or equipment thereof, the New Metrorail Vehicles or other portion of the Work in any manner that would result in any lien, security interest, charge, or claim upon or against any such item under the Uniform Commercial Code or any other law that may be applicable.

GP8.14.5 Adequate documentation, satisfactory to the County, for securing and transferring ownership to a Vehicle, system, subsystem, component, part, equipment, other material or other portion of the Work shall be provided to the County by the Contractor a minimum of fourteen (14) days before Delivery for

Acceptance Testing of the Vehicle or delivery of other portions of the Work to the County. Such documents shall meet all the requirements of the Florida Bureau of Motor Vehicles as applicable.

GP8.14.6 The issuance of a Certificate of Acceptance of Final Inspection, the Acceptance Certificate, the transfer of ownership for a Vehicle or other portion of the Work or the approval or acceptance by the County of a Vehicle or other portion of the Work shall not relieve or release the Contractor from liability for faulty workmanship or materials or the failure to strictly adhere to the requirements of the Contract Documents, including, but not limited to, the Contractor's warranty, reliability, and guaranty obligations, even after final payment of the Contract Sum has been made under the Agreement.

GP8.15 TESTING

GP8.15.1 Testing shall be performed in accordance with the requirements of TPN17.

GP8.15.2 Any defective or inferior materials, equipment or workmanship, which is discovered during the testing or inspection, shall be promptly corrected to the satisfaction of the Engineer.

GP8.16 PRE-PRODUCTION (PILOT) VEHICLES

GP8.16.1 The Contractor shall build three (3) Pre-Production Married Pairs required to be provided by the Agreement, i.e., New HRVs, after the Notice to Proceed. The Pre-Production Married Pairs must be delivered for Acceptance Testing within the time limits set forth in GP8.6.8. The Pre-Production Vehicles shall be provided to the Engineer for evaluation in accordance with the Contract Documents, and as such, the Pre-Production Vehicles must meet all requirements of the Contract Documents. The final determination as to whether the Pre-Production Vehicles and all systems, subsystems, components, equipment, parts and materials therefore meet the requirements of the Contract Documents shall be made by the County and such decision shall be final and binding upon the Contractor.

GP8.16.2 If the Contractor commences production of the remaining Married Pairs before the County has notified the Contractor that the testing for the corresponding Pre-Production Married Pairs has been approved, the Contractor does so solely at its own risk and subject to the requirements of the Contract Documents. Before production begins for the remaining Vehicles, sufficient

time should be allowed to make engineering design changes and order necessary components and parts. The Contractor shall notify the Engineer, in writing, when it plans to begin production on the remaining Vehicles.

GP8.17 SHIPMENTS/DELIVERIES

GP8.17.1 Shipments and deliveries shall be made by the Contractor in accordance with the Contract Documents or any written instructions received by the Contractor from the Engineer. All Vehicles, systems, subsystems, components, parts, equipment and other portions of the Work to be delivered to the County pursuant to the Contract Documents shall be FOB delivered to the County to the point set forth below in GP8.17.3 and all deliveries shall be coordinated with the County. Unless otherwise provided in the Contract Documents, delivery to the County must be made on, or before, the date specified in the Contract Documents.

GP8.17.2 All shipments or deliveries of Vehicles to the County shall only be made in the manner and on the date specified in the Contract Documents or as otherwise directed, in writing, by the Engineer. Adjustments in the scheduled delivery date for the Vehicles to the County's property shall be allowed only upon receipt of written approval by the Engineer.

GP8.17.3 All shipments and deliveries, other than the Vehicles, to the County required by the Contract Documents shall be made between the hours of 7:00 a.m. and 3:00 p.m., Monday through Friday, excluding all Miami-Dade Transit holidays. Shipments and deliveries to the County shall be made to the following address unless the Contractor is otherwise directed in writing by the Engineer:

Miami-Dade Transit
William Lehman Center
6601 NW 72 Avenue
Miami, Florida 33166

GP8.17.4 Vehicles may be shipped resting on their own wheels with the suspension system blocked. All systems, subsystems, components, parts and equipment shall be protected from damage during shipment. If shipped by sea, all Vehicles or components thereof shall be stored below deck and protected to minimize the effect from exposure to the marine environment.

Also, if a Vehicle or component part is shipped by sea, the Engineer shall be advised, by the Contractor, in writing, at least three (3) days prior to the shipment, of the arrival date and port of entry of the shipment.

GP8.17.5 All rotating equipment shall be shipped, in accordance with the manufacturer's suggested procedures. All parts that must be removed to permit shipment shall be securely boxed and shipped with, and identified to, the Vehicle to which they belong.

GP8.17.6 The Vehicles shall be secured against unlawful entry during transit by sealing closed all doors and exterior compartments. Any special, temporary fittings such as straps, grab handles and locking devices required for shipment of the Vehicles shall be provided and removed by the Contractor at its expense.

GP8.17.7 The Contractor shall identify existing equipment and facilities at the delivery site for unloading and receiving the Vehicles and shall assess their suitability. The Contractor shall also supply all special tools and additional equipment necessary for delivering, unloading and storing the Vehicles.

GP8.17.8 In the event any item shipped by the Contractor is not received by the County, or its agent, the Contractor shall immediately replace said item in like quantity.

GP8.17.9 If the Contractor delivers an item which fails to meet the requirements of the Contract Document, and does not promptly replace said item as required by the Contract Documents, or if the Contractor fails to deliver an item within the time specified in the Contract Documents after notification by the County, the County reserves the right to purchase said item in the open market and deduct the expense, including any excess in price over the cost of said item pursuant to the Agreement, from the Contract Sum. If the amount due the Contractor under the Agreement is not sufficient to meet such expenses, the County may proceed against the Contractor and/or its Sureties.

GP8.18 MEETINGS AND REPORTS

GP8.18.1 The Contractor shall record and maintain the minutes for all meetings held with the Engineer and Miami-Dade Transit as well as any Subcontractors or Suppliers. All meeting minutes shall be provided to the Engineer for approval prior to issuance. Disagreement shall be resolved to the satisfaction of the Engineer.

GP8.18.2 Meetings shall be scheduled at the convenience of the Engineer and at a location selected by the Engineer.

GP8.18.3 Meetings requiring the attendance of the Contractor shall include the Pre–Commencement Conference, all design reviews, Monthly Progress Meetings and others as notified by the County or the Engineer.

GP8.19 TRAINING

GP8.19.1 Training shall be performed by the Contractor in accordance with the requirements of TPN15.

GP8.19.2 Instructors supplied by the Contractor for any training required by the Contract Documents shall be totally fluent in English, both in technical terminology and commonly used expressions.

GP8.20 CANCELLATION

If a previously scheduled or agreed to test, inspection or meeting is cancelled by the Contractor less than seven (7) days prior to the test, inspection or meeting date, without the prior written approval of the Engineer, the Contractor agrees to, and shall, promptly reimburse the County for all travel costs and expenses incurred by the County and/or the Engineer for, or in preparing for, the cancelled test, inspection or meeting. Should the Contractor fail to be properly prepared to conduct such test, inspection or meeting, and such test, inspection or meeting is cancelled, the Contractor shall bear all expenses of Miami-Dade County. Should the Contractor fail to promptly reimburse the County, said cost and expenses may be deducted from monies due, or which become due, to the Contractor.

If a previously scheduled or agreed to test, inspection or meeting is cancelled by Miami-Dade County less than two (2) days prior to the test, inspection or meeting date, Miami-Dade County agrees to reimburse the Contractor for direct travel costs incurred by the Contractor.

SECTION GP9 – PAYMENT

GP9.1 SCOPE OF PAYMENT

GP9.1.1 The Contractor will be paid, in the manner set forth in GP9.2 and GP9.4, the Contract Sum provided for in the Agreement which sum shall be full compensation for all costs incurred for furnishing all Work, including management, materials, engineering, manufacturing, labor, incidentals, tools and equipment, for performing the Work in a complete and acceptable manner, and for all risk, loss, damage and expense arising out of the nature and performance of the Work.

GP9.1.2 Full compensation for conforming to all the requirements of the Contract Documents shall be considered to be included in the Contract Sum and no additional compensation shall be owed or allowed to the Contractor.

GP9.2 PROGRESS PAYMENTS

GP9.2.1 The Contractor understands that funds to pay for the Work have been or will be made available from the United States Department of Transportation through FTA, the State of Florida and/or Miami-Dade County. All such funds must be approved and/or administered by FTA, the State of Florida and Miami-Dade County.

GP9.2.2 The Agreement is subject to the availability of the above–referenced funds and the County's obligation under the Agreement is contingent upon the availability of such funds from which payment for the Agreement can be made. No obligation on the part of the County for any payment shall arise until such funds are made available to the County for the Agreement and until the Contractor receives written notice of such availability from the County.

GP9.2.3 The County will make progress payments to the Contractor during the course of the Contractor's satisfactory performance of the Work, based on an approved detailed Schedule of Values developed in accordance with the percentages set forth below and submitted by the Contractor on approved invoices. Before issuance of the Notice To Proceed (NTP), the County and the Contractor will review the Progress Payment Milestones' Schedule of Values (SOV), and the Contractor's spend plan to

identify contract expenditures. The County must approve the SOV prior to NTP. Progress payments will be made by the County to the Contractor, pursuant to approval by the County of the SOV, in accordance with the provisions of GP9.2.7, and after the County has ensured receipt of goods and services, and that the value of such goods and services are in accordance with the SOV. Mutually agreeable adjustments to the payment schedule will be made as required. Progress payment invoices shall not be submitted by the Contractor until after satisfactory completion of each of the milestones set forth in the detailed Schedule of Values and shall not exceed the following stated corresponding percentages of the Contract Sum:

Progress Payment Milestones	
Description of Task	**Percentage of Contract Sum for New HRVs**
1. Notice to Proceed/Program Kickoff a. Approval of Detailed Schedule of Values (GP9.2.3) b. Approval of Project Schedule CDRL (CDRL N1603) c. Completion of Post Award Kick-Off Meeting (TPN16.2.3) d. Provide Certificate of Insurance e. Provide Performance and Payment Bonds f. Mobilization	4%

Progress Payment Milestones	
Description of Task	**Percentage of Contract Sum for New HRVs**
2. Conceptual Design a. Proof of release (signed agreement) of Subcontracts for the following Primary Systems, as applicable: • Carbody • Couplers and Draft Gear • Operator's Cab • Door Control • HVAC • Lighting System • Auxiliary Electric • Propulsion • Truck Assemblies • Friction Braking • Communications • Automatic Train Control • Vehicle Monitoring System b. Approval of Management Plan (CDRL N1601) c. Approval of System Safety Program Plan (CDRL N1805) d. Approval of Quality Assurance Plan (CDRL N1802) e. Approval of Software Quality Assurance Plan (CDRL N2202) f. Approval of Software Project Management Plan (CDRL N2203 g. Approval of Reliability and Maintainability Program Plans (CDRL N1809, N1812)	2%
3. Completion and Acceptance of Preliminary Design a. Approval of Drawing List (CDRL N1541) b. Approval of the Reliability Analyses (CDRL N1809) c. Approval of Preliminary Hazard Analysis (CDRL N1806) d. Approval of Maintenance Concept (CDRL N1814) e. Completion of Preliminary Design Review Meeting(s) Including Approval of PDR Packages (CDRL N1608)	2%

Progress Payment Milestones	
Description of Task	**Percentage of Contract Sum for New HRVs**
4. Completion and Acceptance of Intermediate Design a. Approval of the Initial Weight Statement (CDRL N203) b. Approval of Human Engineering Analysis (CDRL N501) c. Approval of Operating Characteristics and Load Analyses (CDRLs N901, N902, N903) d. Completion of Intermediate Design Review Meeting(s)Including Approval of IDR Packages (CDRL N1614)	2%
5. Completion and Acceptance of Final Design a. Completion of Operator's Cab Mock-up Review and Report (CDRL N1615) b. Approval of Front End and Underfloor Equipment Mock-Up Review and Report (CDRLs N301, N1616) c. Approval of Recommended Spare Parts List (CDRL N1535) d. Approval of All System Safety Analyses (CDRL N1806) e. Completion of Final Design Review Meeting(s) Including Approval of FDR Packages (CDRL N1614)	2%
6. Release of Vehicle Designs a. Release of System and Subsystem Designs for Manufacture of First Article Units.	3%
7. Completion and Acceptance of First Article Inspections a. Approval of Flammability, Smoke Emission and Toxicity Matrix and Test Results (CDRLs N1930, N1931) b. Approval of all Design Baseline Submittals (CDRL N1617, N1712) c. Approval of Subsystem and System First Article Inspections (CDRL N1713) d. Approved Vehicle Carbody First Article Inspection (CDRL N1713) e. Approval of Subsystem and System Design Qualification Tests (CDRL N1707)	3.5%

Progress Payment Milestones	
Description of Task	**Percentage of Contract Sum for New HRVs**
8. Manufacture and Delivery of First Three Married Pairs (Pre-Production Vehicles) a. Completion of three Pre-Production Married Pairs b. Acceptance of First Article Inspection of the Pre-Production Cars (CDRL N1713) c. Approval of Pre-Production Married Pairs Qualification Test Results (CDRL N1707) d. Approval of all Required Factory Testing (CDRL N1705, N1707) and Pre-shipment Inspections (CDRL N1710) e. Delivery and Unloading of Pre-Production Cars at MDT	6%
9. Delivery of Initial Spare Parts and Special Tools a. Delivery and Demonstration of Portable Test Equipment b. Delivery and Demonstration of Diagnostic Test Equipment c. Delivery of Initial Spare Parts d. Delivery of Initial Special Tools	3%
10. Delivery and Approval of Draft Manuals a. Approval of the Manuals Program Plan (CDRL N1503), Manuals Style Guide (CDRL N1504) and Manual Samples (CDRL N1505) b. Submittal of Draft Manuals and Parts Catalogs and Signed Review Sheets (CDRL N1506) c. Approval of Delivered Manuals (CDRL N1507) d. Delivery of Electronic Documentation Support System (CDRL N1502) and Electronic Drafting Support System (CDRL N1537)	0.5%
11. Delivery and Approval of Instructor & Student Training Guides a. Approval of Training Program Plan (CDRL N1513) b. Approval of the Training Material (CDRL N1516)	0.5%

Progress Payment Milestones	
Description of Task	**Percentage of Contract Sum for New HRVs**
12. Completion of All Testing of Pre-Production Married Pairs, excluding Consist Level Testing a. Approval of On-site Qualification Test Results (CDRL N1707) b. Approval of the Safety Certification Plan (CDRL N1805) c. Safety Certification of the Pre-Production Married Pairs (CDRL N1805) d. Issuance of the Certificate of Acceptance of Final Inspection for the three Pre-Production Married Pairs including delivery and completion of Car History Books (GP8.14.2, CDRL N1623)	6%
13. Commencement and Completion of Training a. Commencement of Training b. Completion of Training	2%
14. Delivery of Married Pairs 4-5 a. Completion, including testing and inspection, and Approval for Shipment of Married Pairs 4-5 b. Delivery and unloading of Married Pairs 4-5 c. Issuance of the Certificate of Acceptance of Final Inspection of Married Pairs 3-5 including delivery and completion of Car History Books (GP8.14.2, CDRL N1623)	1.8%
15. Delivery of Married Pairs 6-17 a. Completion, including testing and inspection, and Approval for Shipment of Married Pairs 6-17 b. Delivery and unloading of Married Pairs 6-17 c. Issuance of the Certificate of Acceptance of Final Inspection of Married Pairs 6-17 including delivery and completion of Car History Books (GP8.14.2, CDRL N1623)	10.8%
16. Delivery of Married Pairs 18-35 a. Completion, including testing and inspection, and Approval for Shipment of Married Pairs 18-35 b. Delivery and unloading of Married Pairs 18-35 c. Issuance of the Certificate of Acceptance of Final Inspection of Married Pairs 18-35 including delivery and completion of Car History Books (GP8.14.2, CDRL N1623)	16.2%

Progress Payment Milestones	
Description of Task	**Percentage of Contract Sum for New HRVs**
17. Delivery of Married Pairs 36-53 a. Completion, including testing and inspection, and Approval for Shipment of Married Pairs 36-53 b. Delivery and unloading of Married Pairs 36-53 c. Issuance of the Certificate of Acceptance of Final Inspection of Married Pairs 36-53 including delivery and completion of Car History Books (GP8.14.2, CDRL N1623)	16.2%
18. Delivery of Married Pairs 54-68 a. Completion, including testing and inspection, and Approval for Shipment of Married Pairs 54-68 b. Delivery and unloading of Married Pairs 54-68 c. Issuance of the Certificate of Acceptance of Final Inspection of Married Pairs 54-68 including delivery and completion of Car History Books (GP8.14.2, CDRL N1623)	13.5%
19. Delivery of Final Spares and Special Tools a. Delivery and Demonstration of Shop Test Equipment b. Delivery of Remaining Spares c. Delivery of all Remaining Special Tools	2%
20. Completion of all Work a. Delivery and approval of As Built Drawings (CDRL N1542) b. Delivery and Approval of all Operation and Maintenance Manuals and Spare Parts Catalogs c. Final Acceptance of As Built Drawings d. Reliability test successfully completed e. Completion of five year warranty period items	3%
Total	**100.0%**

The final detailed Schedule of Values shall include, but not be limited to:

- Approval of CDRLs, drawings, plans, procedures, analyses, manuals, training materials, car history books, and design review packages.
- Satisfactory completion of design reviews, various manufacturing phases, tests, training, and warranty.

- Delivery of vehicles, spares, test equipment and special tools.
- Specific values assigned to each payment milestone such that the total milestone payments for each line item above does not exceed the percentage allocated. MDT reserves the right to approve all values assigned to the payment milestones in the Schedule of Values.

GP9.2.4 Invoices for progress payments shall be submitted no more than once per month by the Contractor in a format mutually agreed upon at the Project Kickoff Meeting. A draft of each Contractor's invoice shall be submitted to the Engineer for review and approval, after which the "Final" edition may be submitted for payment. At a minimum, each invoice shall include:

(A) The Agreement/Contract number and date of invoice;

(B) A unique invoice number;

(C) Completed milestone number(s) and description(s);

(D) The total invoice amount;

(E) The total amount previously invoiced;

(F) The total remaining Contract balance:

(G) Final invoices shall be labeled "Final" and shall be signed by a designated Contractor representative.

The preliminary payment milestones listed for each line item in GP9.2.3 do not represent every milestone required to complete the specific line item. Applicable payment milestones shall be those set forth in the final approved Schedule of Values. Payments will be made upon satisfactory completion and acceptance of each milestone in the Schedule of Values.. Attached to each invoice shall be objective evidence that the activities associated with the Milestone Payments have been completed. The Contractor shall assign all deliverables to a specific milestone in the Master Program Schedule. Partial payments will not be made for any given payment milestone

The Contractor shall certify, in each invoice, that the Work invoiced has been completed and approved by the Engineer and performed in accordance with the requirements of the Contract Documents.

GP9.2.5 No markup is permitted on expenses for Subcontractors, Suppliers, printing, communications, travel, subsistence or other such expenses.

GP9.2.6 In the event expenditures reimbursed to the Contractor under the Contract Documents are subsequently disallowed by the County, due to accounting errors or changes not in conformity with the Contract Documents, the Contractor shall immediately refund such amounts to the County.

GP9.2.7 After receipt, the Engineer will review and evaluate each invoice for progress payments and the supporting data, and forward same to the County for approval with Engineer's recommendation on payment. No progress payment will be approved by the Engineer until an invoice therefore is received from the Contractor and accepted, and the Engineer has verified that all Work covered thereby has been performed in accordance with the requirements of the Contract Documents.

GP9.2.8 The County will notify the Contractor within ten (10) days of receipt of an invoice if there are any issues regarding the invoice. Each Engineer approved invoice will be paid by the County within forty-five (45) days of the County's receipt of a proper invoice in accordance with Florida Statute 218.74 and Section 2-8.1.4 of the Miami-Dade County Code. Progress payments shall not be construed as relieving the Contractor from sole responsibility for all engineering, material, equipment and work upon which payments have been made and the restoration of all defective work, or as waiving the right of the County to require the fulfillment of all of the requirements of the Contract Documents.

GP9.2.9 Payments made under the Contract Documents by the County shall not be construed as an acceptance of defective work or acceptance of improper material, nor as condoning any omission of required work. No payment or certificate, final or otherwise, shall be construed as relieving the Contractor from its contractual obligations to make acceptable any defects and consequences thereof, discovered in the Work, even when discovered after completion or acceptance of same. No payment or certificate, final or otherwise, shall be construed as a waiver of any of the Contractor's obligations set forth in the Contract Documents.

GP9.2.10 No progress payments will be owed or made for any portion of the Work not in accordance with the requirements of the Contract Documents.

GP9.2.11 Miami-Dade County may withhold payment of any progress payment due the Contractor until the County has confirmed that the Contractor has performed all applicable administrative tasks pertaining to the specific progress payment as required by the Contract Documents. Also, if documents, data, samples, drawings, and submittals or any part thereof required to be supplied by the Contractor pursuant to the Contract Documents are not delivered within the time specified by the Contract Documents, or are deficient upon delivery, the County may, until such documents, data, samples, drawings or submittals are delivered or the deficiencies are corrected, withhold any monies due or that may become due to the Contractor. The withholding of any payments to the Contractor shall not be construed as a waiver of any rights accruing to the County under the Contract Documents or according to law.

GP9.2.12 In the event that a dispute arises between the County and any other contractor, person or entity, which dispute is based upon increased costs claimed by such contractor as a result of delays or other actions of the Contractor, monies in the sum of one and one–half times the amount of any possible liability may be withheld by the County from the Contractor as retainage until such time as a final resolution is agreed to by all parties directly or indirectly involved, unless the Contractor furnishes a bond satisfactory to the County to indemnify and hold harmless the County against the claim.

GP9.2.13 In the event that the Engineer determines the Contractor has failed to complete an item or items of the Work in accordance with the requirements of the Contract Documents, the Engineer shall identify, in detail, each uncompleted item of the Work and determine a reasonable cost of completion. The County may withhold the sum of one and one–half times the cost of completing said items of the Work until such time as said item is completed in accordance with the Contract Documents.

GP9.3 AGREEMENT ADMINISTRATIVE CLOSE–OUT

The following list of items collectively constitutes the administrative close–out work for the Agreement:

(A) The Contractor supplying a general release to Miami-Dade County in a form to be supplied by Miami-Dade County;

(B) Surety concurrence in final payment (both labor and material);

(C) For non–Florida corporations, the necessary certificates from the Florida Department of Revenue and Department of Labor and Industry, Bureau of Unemployment Compensation;

(D) Release of all claims and liens against the County and the Engineer arising by virtue of the Agreement;

(E) Final and satisfactory As–Built Drawings (TPN15) and the satisfactory delivery of all other remaining documents required by the Contract Documents to be supplied to Miami-Dade County by the Contractor;

(F) Finalized Operation and Maintenance Manuals (TPN15);

(G) Finalized spare parts, catalogs and/or lists (TPN15); and

(H) Delivery of the five (5) year warranty and the completion of all reliability testing.

All of the above listed items shall be completed and submitted to Miami-Dade County, at the latest, within thirty (30) days after the completion by the Contractor and the acceptance by Miami-Dade County of all other portions of the Work. Agreement Administrative Close-Out shall not be considered complete until all items which comprise the Agreement Administrative Close-Out are completed in a manner acceptable to Miami-Dade County.

GP9.4 FINAL PAYMENT

GP9.4.1 Within thirty (30) days after the completion by the Contractor and acceptance by Miami-Dade County of all portions of the Work, the Contractor shall prepare and submit a proposed invoice for the final pay estimate. Prior pay estimates and payments shall be subject to correction on the proposed final pay estimate.

GP9.4.2 The Work shall not be complete until, as noted above, the Contractor has completed, and Miami-Dade County has accepted, all portions of the Work including, but not limited to the completion and, as applicable, acceptance of: all required tests; all technical support; all reliability periods; at least, the five (5) year warranty period for each of the New Vehicles as set forth in GP5.2.4; and all necessary repairs and modifications

resulting from said tests, reliability periods and warranties, as required by the Contract Documents.

GP9.4.3 The Engineer will review the Contractor's proposed invoice for the final pay estimate. Any changes or corrections found necessary by the Engineer will be submitted to the Contractor for revision. Within ten (10) days thereafter, the Contractor shall submit to Miami-Dade County an invoice for the final pay estimate incorporating any changes or corrections made by the Engineer. Said invoice will then be reviewed by Miami-Dade County and if approved by Miami-Dade County, this estimate will become the approved final pay estimate. If, however, a proposed invoice for the final pay estimate is not submitted by the Contractor within sixty (60) days after the completion by the Contractor and acceptance by Miami-Dade County of all portions of the Work, Miami-Dade County may elect to make payment of such sums which are not in dispute, without prejudice to the rights of either Miami-Dade County or the Contractor in connection with such sums which are in dispute.

GP9.4.4 Upon approval of the invoice for the final pay estimate by Miami-Dade County, and after completion, to the satisfaction of Miami-Dade County, of the Agreement Administrative Close-Out items as provided in GP9.3, Miami-Dade County will issue an Acceptance Certificate. The Acceptance Certificate shall certify that all the Work has been completed and accepted as of the date of the Acceptance Certificate subject to any guarantee or warranty, expressed or implied, provided by the Contractor or pursuant to the Contract Documents. The issuance by Miami-Dade County of the Acceptance Certificate shall not be construed to be acceptance by Miami-Dade County of any defective or inferior work, improper materials, or work not adhering to the requirements of the Contract Documents. Miami-Dade County will transmit copies of the Acceptance Certificate to the Contractor, Surety and other appropriate interested agencies.

GP9.4.5 Miami-Dade County will make final payment to the Contractor within thirty (30) days after issuance of the Acceptance Certificate. Such final payment shall constitute full and complete payment to the Contractor for the Work.

END OF SECTION