

NEW YORK STATE OFFICE OF GENERAL SERVICES  
SURPLUS PROPERTY SALE - CABOOSE

**Seller's Disclosure/Bidders Acknowledgment  
of Terms, Conditions, and Other  
Requirements  
Pertaining to the Sale of  
NYS Surplus Property CABOOSE**

Buyers are required to acknowledge receipt and their acceptance of the following disclosures concerning the subject sale: I. **Terms and Conditions**; II. **Insurance Requirements for Buyer of the CABOOSE**; and III. **The Iran Divestment Act**.

**Instructions:** Read, initial at the bottom of each page—and sign the acknowledgment at end.

**— Section I: TERMS AND CONDITIONS —**

1. The State of New York (the "State"), through the New York State Office of General Services ("NYSOGS"), reserves the right to **add** or **withdraw** any item(s) before the time of sale.
2. Property has been available for inspection and is being sold on an "as is" and "where is" basis, with no guarantee expressed or implied by the State of New York. Potential buyers are **encouraged to inspect** the item before bidding.
3. Bidders/Buyers specifically acknowledge receipt of NOTICE that the Caboose offered for sale contains certain HAZARDOUS MATERIALS, i.e., ASBESTOS and LEAD PAINT.
4. Sale will be made to the highest bidder, subject to the following terms of sale.
5. New York State reserves the right to reject any or all bids.
6. The sale of the CABOOSE is complete, with risk of loss passing to the buyer, as winning bidder is declared to be purchaser. In order to bid on and/or to purchase the CABOOSE, bidders must acknowledge receipt and acceptance of the State's INSURANCE REQUIREMENTS, and bidders' insurance presents must be accepted by the State. The State's INSURANCE REQUIREMENTS pertaining to the sale of the CABOOSE are contained in section II of this document.
7. **All sales are final. No refunds, No returns, No exchanges, No turndowns.**
8. Sales tax will be charged and collected on the purchase, unless the State is furnished with acceptable proof of exemption at the time of sale.
9. Bidders must be 18 years of age or older.

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10. Removal of the CABOOSE—including the acquisition of any and all permits or licenses which may be required—is the sole responsibility of the buyer, and such removal must be made during the State's normal business hours, i.e., 8:00 a.m. to 4:00 p.m. A copy of the Bill of Sale **must** be furnished at the time of removal. Failure to comply with these removal terms will affect future bidding privileges. **Buyer is solely responsible for any and all damages or injuries arising from removal of the property from the site.**
11. **In the purchase of the CABOOSE only**—if Buyer needs or intends to continue storage of the property at the Allan H Treman Park for a maximum of 30 days, e.g., for removal of the property after the deadline established in the NYSStores.com terms and conditions of sale, or for any preparation or processing of the property at the site, then Buyer is solely responsible for any and all arrangements—and associated costs—with the NYS Office of Parks, Recreation and Historic Preservation.
12. **In the purchase of the CABOOSE only**—Buyer is responsible for producing evidence of liability insurance, in a form and amount acceptable to the State, prior to attempting removal of the property from the site.
13. By bidding, Bidder acknowledges acceptance of these terms and conditions.
14. **NOTICE:** Buyer certifies that it shall responsibly use the subject property—including disposition of the property—in compliance with all applicable laws and rules, and environmentally preferred practices.

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**— Section II: Insurance Requirements - For Buyers of Train Cars (CABOOSE) —**

The Buyer, within 48 hours of the close of the sale, shall provide to The People of the State of New York, Office of General Services (hereinafter referred to as "OGS"), Certificates of Insurance evidencing compliance with all requirements contained in this Insurance Requirements document. Such Certificates shall be of form and substance acceptable to OGS.

Acceptance and/or approval by OGS does not and shall not be construed to relieve Buyer of any obligations, responsibilities or liabilities under the Contract.

All insurance required by OGS herein shall be obtained at the sole cost and expense of the Buyer; shall be maintained with insurance carriers licensed to do business in New York State, and acceptable to OGS; shall be primary and non-contributing to any insurance or self-insurance maintained by OGS; shall be endorsed to provide written notice be given to OGS at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail; shall be sent to (*OGS Surplus Property , Building 18, Harriman State Campus , Albany NY 12226*) and shall name The People of the State of New York, its officers, agents, and employees as additional insureds there under (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 10 11 85 or its equivalent).

The Buyer shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by OGS. Such approval shall not be unreasonably withheld.

The Buyer shall require that any subcontractors they hire carry insurance with the same limits and provisions provided herein.

Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the Department and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.

The Buyer shall cause all insurance to be in full force and effect as of the date of the purchase and to remain in full force and effect throughout the term of Buyer's removal of the property from the site (i.e., the Allan H. Treman State Marine Park, 805 Taughannock Blvd. (Rt 89), Ithaca, NY 14850). The Buyer shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.

Not less than thirty (30) days prior to the expiration date or renewal date, the Buyer shall supply OGS updated replacement Certificates of Insurance, and amendatory endorsements.

The Buyer, throughout the term of its removal of the property from the site, or as otherwise required by the terms and condition of sale, shall obtain and maintain in full force and effect, the following insurance

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with limits not less than those described below, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

- a) Commercial General Liability Insurance with a limit of **not less than \$2,000,000** each occurrence. Such insurance shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage.

1. If such insurance contains an aggregate limit, it shall apply separately on a per job or per project basis.

- b) Prior to the State's final acceptance of any bid to purchase the property, i.e., CABOOSE, Buyer must submit proof that they have the workers' compensation and disability benefits coverage required by the New York State Workers' Compensation Law, or proof that they are legally exempt from obtaining such coverage. Proof of compliance must be demonstrated in accordance with the requirements set forth by the New York State Workers' Compensation Board (An instruction manual clarifying the Workers' Compensation Law requirements is available to download at the Workers' Compensation Board's website, [www.wcb.state.ny.us](http://www.wcb.state.ny.us). Once you are on the website, click on Employers/Businesses, then Business Permits/Licenses/Contracts; from there, click on Instruction Manual for Businesses Obtaining Permits/Licenses/Contracts.) The Buyer shall notify the Office of General Services, Office of Legal Services, at least thirty (30) days prior to material change or cancellation of such coverage.

If employees will be working on, near or over navigable waters, US Longshore and Harbor Workers Compensation Act endorsement must be included.

- c) Comprehensive Business Automobile Liability Insurance with a limit of **not less than \$2,000,000** each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
- d) Environmental Liability Insurance with a limit of not less than \$2,000,000 each occurrence.

Waiver of Subrogation. Buyer shall cause to be included in each of its policies a waiver of the insurer's right of subrogation against OGS, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Buyer waives or has waived before the casualty, the right of recovery against OGS or (ii) any other form of permission for the release of OGS.

Buyer acknowledges that failure to obtain any or all required insurance on behalf of OGS, as specified herein, constitutes a material breach of terms and conditions of the auction/sale and subjects Buyer to liability for damages, indemnification and all other legal remedies available to OGS, which legal remedies include—by way of example but not limitation—the cancellation of the sale.

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**— Section 3: Iran Divestment Act —**

By submission of a winning bid for the purchase of the State's surplus CABOOSE , and upon the State's acceptance of such winning bid, the Buyer has entered into a contract for the purchase of an item of such surplus property (the "Contract"), and hereby certifies that Buyer is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list (the "Prohibited Entities List"), which list is posted on the OGS website at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>; and further certifies that Buyer will not utilize in connection with such Contract any subcontractor that is identified on the Prohibited Entities List. Buyer also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before NYSOGS may approve a request for Assignment of the Contract.

During the period following the State's award of the sale to Buyer, i.e., during the period agreed upon by the parties for Buyer's removal of the property purchased, should NYSOGS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, NYSOGS will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then NYSOGS shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Buyer in default.

NYSOGS reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List, and to pursue a cancellation of the sale to the Buyer should Buyer appear on the Prohibited Entities List hereafter.

**— Bidder's/Buyer's Acknowledgment —**

The undersigned, a Bidder / Buyer at the NYSOGS auction of surplus property train cars and related parts, do hereby acknowledge receipt of the foregoing disclosures (i.e., Terms & Conditions; Insurance Requirements for Buyers of Train Cars; and Iran Divestment Act), and I hereby accept the foregoing disclosures as bearing upon my purchase of certain of the subject surplus property. If I am acting in this transaction as an agent or employee of another individual or entity, I also acknowledge that I have authority to act in this matter on behalf of such other individual or entity, and that my acceptance of these disclosures is in this capacity and is binding upon the others I represent.

\_\_\_\_\_  
(Sign above)

By: \_\_\_\_\_  
(Print Name & eBay account user name)

For: \_\_\_\_\_

Date: \_\_\_\_\_, 2015