**General Services Terms and Conditions**

**Rev. 072921 (GT&S)**

**Table of Contents**

**SECTION TITLE PAGE**

[**1.** **Scope of Attachment** 1](#_Toc58484450)

[**2.** **Non-binding Counteroffer** 2](#_Toc58484451)

[**3.** **Invoices and Payments** 2](#_Toc58484452)

[**4.** **Subcontractors; Former Employees** 3](#_Toc58484453)

[**5.** **Waiver of Liens** 5](#_Toc58484454)

[**6.** **Records, Auditing, and Data Security** 6](#_Toc58484455)

[**7.** **Acceptance** 8](#_Toc58484456)

[**8.** **Changes** 8](#_Toc58484457)

[**9.** **Specifications, Plans and Drawings** 9](#_Toc58484458)

[**10.** **Cleaning Up** 9](#_Toc58484459)

[**11.** **Inspection and Expediting** 9](#_Toc58484460)

[**12.** **[RESERVED]** 10](#_Toc58484461)

[**13.** **Warranties** 10](#_Toc58484462)

[**14.** **Breach and Default** 11](#_Toc58484463)

[**15.** **Indemnity** 12](#_Toc58484464)

[**16.** **Insurance** 12](#_Toc58484465)

[**17.** **Suspension; Termination** 14](#_Toc58484466)

[**18.** **Compliance with Laws; Banned Technologies** 15](#_Toc58484467)

[**19.** **Permits, Licenses, and Registrations** 20](#_Toc58484468)

[**20.** **Intellectual Property Ownership** 20](#_Toc58484469)

[**21.** **Intellectual Property Infringement** 21](#_Toc58484470)

[**22.** **Confidential Information** 2](#_Toc58484471)2

[**23.** **Protecting Personally Identifiable Information (PII); Security; Breach of Security**..24](#_Toc58484472)

[**24.** **Taxes** 2](#_Toc58484473)7

[**25.** **[RESERVED]** 27](#_Toc58484474)

[**26.** **Assignment** 27](#_Toc58484475)

[**27.** **Passage of Title and Risk of Loss** 27](#_Toc58484476)

[**28.** **Safety** 2](#_Toc58484477)8

[**29.** **Materials, Tools, Equipment and Facilities** 28](#_Toc58484478)

[**30.** **[RESERVED]** 28](#_Toc58484479)

[**31.** **Background Investigations and Access** 28](#_Toc58484480)

[**32.** **[RESERVED]** 29](#_Toc58484481)

[**33.** **Miscellaneous** 29](#_Toc58484482)

[**Appendix**  **Insurance Requirements** 3](#_Toc58484483)3

[**Appendix**  **Sample Subcontractor Addendum** 3](#_Toc58484484)5

**APPENDIX Supplier Code of Conduct**…………………………………………………..41

2. **Scope of Attachment**
3. Scope. These General Services Terms and Conditions and any attached appendices or attachments, incorporated by this reference (collectively “***Terms and Conditions***”), provide the terms and conditions applicable to one or more procurement documents (each a “***Purchase Order***”) issued by the entity requesting the work (“***Purchaser***”) to the entity performing the work (“***Supplier***”), subject to which Supplier agrees to sell and deliver and Purchaser agrees to purchase and receive the services, including without limitation, delivery services (“***Services***”) and/or provide associated goods, products, materials, or equipment (“***Materials and Equipment***”) specified in such Purchase Order(s) (collectively, the “***Work***”). Purchaser and Supplier collectively are the “***Parties***” and each singularly a “***Party***.” Unless the Parties expressly agree otherwise in writing, “***Services***” includes all services necessary or incidental to Materials and Equipment supplied. These Terms and Conditions shall apply to any purchase by Purchaser or any of its Affiliates (defined below) at any tier (each a “***Purchaser Affiliate***”) from Supplier of Services (except professional and/or construction services) and related Materials and Equipment.
4. Purchase Orders. Each Purchase Order shall: (i) identify Purchaser and Supplier; (ii) specify the Purchase Order’s start and end dates (the “***Term***”); (iii) include any applicable pricing, compensation, payment, delivery, or other transaction-specific terms; (iv) if applicable, include or attach a specific scope or statement which describes the Work, identifies any deliverables (each a “***Deliverable***”), and specifies start date(s), milestone date(s), and completion date(s) as applicable (the “***Schedule***”) (collectively the “***Statement of Work***” or “***SOW***”); (v) attach and/or incorporate these Terms and Conditions and any supplemental terms and conditions, exhibits, attachments, addenda, or other documents required for that Purchase Order (each an “***Attachment***”); and (vi) set forth the applicable order of precedence.
5. Value Contract/Master Agreement. A Purchase Order or separate agreement which describes Work Supplier may perform without authorizing any specific Work is a master agreement (each a “***Value Contract***” or “***Master Agreement***”). Purchase Orders or SOWs released under a Master Agreement authorize procurement of specific Work subject to the terms of the Master Agreement.
6. Agreement Defined. The “***Agreement***” is: (i) a Master Agreement and all Purchase Orders released under it; or (ii) if not issued under a Master Agreement, the specific Purchase Order. “Purchaser” shall mean only the specific Purchaser Affiliate(s) identified in a given Purchase Order as the entity(s) issuing such Purchase Order, and only such Purchaser Affiliate(s) will be bound by that Purchase Order, even if released under a Master Agreement.
7. Affiliate Defined. “***Affiliate***” means a parent or subsidiary company at any tier of a Party, any company that has an ultimate parent company in common with a Party, any person or entity that holds, directly or indirectly, an ownership interest of more than 50% of a Party, any person or entity that controls or directs the management of a Party, any entity in which a Party holds, directly or indirectly, an ownership interest of more than 50%, or any entity with respect to which a Party controls or directs the management.

1. **Non-binding Counteroffer**

If Purchaser issues a Purchase Order to Supplier, and if Supplier responds to the Purchase Order with a counteroffer or any terms that vary from the terms in the Purchase Order, no contract will exist between the Parties on the terms proffered by Supplier unless and until Purchaser accepts the counteroffer in writing. Any performance by Supplier prior to Purchaser’s written acceptance of any terms that vary from those of Purchaser’s originally issued Purchase Order will be subject to the terms of such Purchase Order.

1. **Invoices and Payments**
2. Invoices. Except as otherwise provided in this Agreement, Supplier shall submit invoices no later than thirty (30) days following Purchaser’s Acceptance (defined in Section 7) of the Work. Each invoice must be submitted by Supplier to the location shown in the Purchase Order, and must include: (i) this Agreement number; (ii) the invoice number and date; (iii) the remittance address; (iv) an itemization of the specific Work provided by Supplier; (v) the date of provision of the Work; (vi) an itemization of the unit prices, if applicable, for which payment or partial payment is invoiced; (vii) the total invoice amount; (viii) Purchaser’s name and location at or for which the Work has been provided; (ix) Supplier’s vendor number (if available); (x) the release number (if available); (xi) the date range worked; (xii) the hours worked per invoice period, if applicable; (xiii) the charges for hours worked, if applicable; and (xiv) separate amounts for labor, equipment, per diem, and miscellaneous charges, if applicable, with supporting documentation. If Supplier is providing Work to Purchaser under more than one agreement, Supplier must issue separate invoices for each agreement.
3. Payment.
   1. Payment Terms. Payments for undisputed amounts shall be made in accordance with the payment terms set forth in the Purchase Order applicable to the Work for which payment has been requested by Supplier.
   2. Early Payment Discounts. If Purchaser may receive discounts for early payment of a Purchase Order, the payment terms shall begin with the letters “DPT” and state the applicable discount as a dynamically discounted payment term. Dynamic discounts are early payment discounts calculated based on the number of days an invoice is paid early. The earlier the invoice is paid, the higher the discount taken. On the “Net” day, the discount becomes 0. For example, a payment term of “DPT - 2% 1 Net 30, Slide 1-30” indicates that 2% will be taken if an invoice is paid on the first day that Purchaser receives it, 1.93% if paid the following day, and will decline by 0.067% per day until it reaches 0 on day 30.
4. Retention. Purchaser may withhold ten percent (10%) or the maximum percentage allowed by law, whichever is less, of all invoiced amounts from payments due or to become due to Supplier, pending completion of the Work and receipt of any documentation that may be specified in this Agreement.
5. [RESERVED]
6. Foreign Suppliers. If Supplier is a foreign entity, then no payment will be made until a valid Form W8 is received by Purchaser. To be valid, the Internal Revenue Service requires that the form have no abbreviations and be an originally signed document. The person signing the form must have the authority to bind Supplier. The originally signed form should be sent to:

|  |  |  |
| --- | --- | --- |
| Courier Address: |  | Mailing Address: |
| BHE GT&S, LLC  Accounts Payable  6603 West Broad Street  6th Floor  Richmond, Virginia 23230 |  | BHE GT&S, LLC  Accounts Payable  6603 West Broad Street  6th Floor  Richmond, Virginia 23230 |

1. Final Payment. Purchaser shall not make final payment for the Work, until Supplier has completed the Work and Acceptance of the Work occurs. Supplier’s receipt of final payment shall be deemed a waiver of all claims by Supplier for payment for provision of the Work.
2. **Subcontractors; Former Employees**
3. Use of Subcontractors. Supplier may engage third parties to assist Supplier with performing the Work and fulfilling Supplier’s obligations under this Agreement (each a “***Subcontractor***”). For purposes of this Agreement, “Subcontractor” includes subcontractors or suppliers of any tier. Supplier will not be relieved of any duty or liability under this Agreement by reason of any subcontracting and will remain responsible to Purchaser for the full performance of this Agreement. Supplier is responsible for the acts and omissions of its Subcontractors to the same extent as if Supplier had committed such acts and omissions itself. Supplier shall oversee and supervise all Subcontractors in the provision of any aspect of the Work. If applicable, Supplier shall adhere to Purchaser’s Supplier Diversity Subcontracting requirements.
4. Requirements of Subcontracts. At Purchaser’s request, Supplier shall provide Purchaser with a copy of any proposed contract between Supplier and a Subcontractor to verify that the contract meets the requirements of this Agreement. Supplier may redact from the subcontract before it is delivered to Purchaser any portions of that subcontract that do not need to be shown to Purchaser for that review, including but not limited to pricing and credit. Purchaser shall have the right to approve the terms of any such subcontract. Supplier agrees that each contract between Supplier and any Subcontractor must include: (i) indemnity provisions substantially the same as the indemnification provisions of this Agreement and pursuant to which the Subcontractor will agree to indemnify Purchaser; (ii) insurance provisions substantially the same as in the insurance provisions of this Agreement; (iii) confidentiality provisions substantially the same as the confidentiality provisions of this Agreement; (iv) provisions pertaining to the protection of PII (defined in Section 23 below) substantially the same as Section 23 *Protecting Personally Identifiable Information* of this Agreement; (v) miscellaneous provisions substantially the same as Section 33 *Miscellaneous* of this Agreement; (vi) the requirement to provide a waiver of all liens (as required by this Agreement); (vii) warranty provisions equal to or more favorable than those Supplier will provide in accordance with this Agreement; (viii) an audit provision substantially similar to Section 6 *Records, Auditing, and Data Security* of this Agreement, and (ix) other provisions as Purchaser may reasonably require as a condition of approving Supplier’s contract with a Subcontractor. Supplier may, at its option, use the attached “Sample Subcontractor Addendum” to comply with these requirements. Nothing contained in this Agreement shall be deemed to create any contractual obligations on the part of Purchaser to any person or entity other than Supplier.
5. Notification Regarding Subcontractors. Supplier shall provide a complete list of proposed Subcontractors upon Purchaser’s request. If Purchaser provides written notice to Supplier that it disapproves of any Subcontractor, which Purchaser may do in its sole discretion, then Supplier shall not use that Subcontractor to provide any part of the Work. Nothing in this Section 4 *Subcontractors; Former Employees* shall in any way be construed to limit Purchaser’s rights against Supplier or any Subcontractors.
6. Targeted Solicitation of Current Purchaser Affiliate Employees Prohibited. During the term of this Agreement and for a period of one (1) year thereafter, neither Supplier nor any Subcontractor shall solicit any current or former employee of a Purchaser Affiliate with whom the Supplier or Subcontractor became familiar in the course of performing Services or Work **for the purpose of having such person work on accounts of any Purchaser Affiliate(s) or to perform duties substantially similar to the Services or Work that Supplier or Subcontractor performed under this Agreement**.
7. Former Employees. If Supplier or any Subcontractor employs or seeks to employ persons to perform Services or Work for or for the account of any Purchaser Affiliate (including, but not limited to, Purchaser under this Agreement) who at any time previously were employed by a Purchaser Affiliate in any capacity but are not at that time employed by any Purchaser Affiliate (each a “***Former Employee***” or “***FE***”), the following terms and conditions apply.
   1. Supplier FEs. If Supplier or a Subcontractor employs an FE to perform Services or Work **under Supplier’s direction** for or on behalf of any Purchaser Affiliate pursuant to a defined SOW with deliverables specified by contract, including, but not limited to, this Agreement (each a “***Supplier FE***”), Supplier may utilize such Supplier FE to perform Services or Work on a Purchaser Affiliate’s account, whether on- or off-site, for only a small portion of the work such Supplier FE performs for Supplier or its Subcontractors during the first twelve (12) months following such Supplier FE’s separation from any Purchaser Affiliate. Individual exceptions to the foregoing may be approved by the Purchaser Affiliate (which may be by email) on a case-by-case basis. Supplier may utilize a Supplier FE to perform Services or Work for or on behalf of any Purchaser Affiliate without restriction upon the expiration of the initial twelve (12) months.
   2. Staff Augmentation FEs. If Supplier or a Subcontractor employs an FE to perform Services or Work **under direction of a Purchaser Affiliate** as staff augmentation for or on behalf of any Purchaser Affiliate (each a “***Staff Augmentation FE***”), the following requirements apply.
      1. Outages, Major Storms, and Critical Needs*.* If the Services or Work the Staff Augmentation FE will perform are for outages, major storm response, or approved critical business needs as determined in Purchaser’s sole discretion, **at least six (6) consecutive months** must have passed since the Staff Augmentation FE separated from any Purchaser Affiliate.
      2. Other Staffing Needs. If a Staff Augmentation FE will perform Services or Work to fill any need other than those listed in subsection (A) *Outages, Major Storms, and Critical Needs* above, **at least twelve (12) consecutive months** must have passed since the Staff Augmentation FE separated from any Purchaser Affiliate.
      3. Hours Limit. A Staff Augmentation FE may work a maximum of 999 hours for Purchaser Affiliates in a staff augmentation capacity during each calendar year. For clarity, a Staff Augmentation FE’s service hours are calculated as the combined sum of all hours worked during the calendar year in a staff augmentation capacity for all Purchaser Affiliates, regardless of whether the Staff Augmentation FE was employed by Supplier or another employer. Supplier or the Subcontractor shall notify Purchaser at [nondworker@dominionenergy.com](mailto:nondworker@dominionenergy.com) when: (1) Supplier or the Subcontractor proposes an FE to serve as a Staff Augmentation FE for any Purchaser Affiliate, including the best of its knowledge at that time the cumulative hours such FE has worked in that particular calendar year for any Purchaser Affiliate as an employee of Supplier or the Subcontractor; (2) any time a Staff Augmentation FE’s total annual hours worked for Purchaser Affiliates reaches 850 hours and weekly thereafter until such time as the total hours reaches or exceeds 999 hours. If a Staff Augmentation FE’s hours exceed 999 in any calendar year, Supplier or the Subcontractor shall notify the Staff Augmentation FE’s leader that it has notified Purchaser’s Human Resources that the FE’s hours limit has been exceeded.
      4. Reporting Requirements. Supplier must provide monthly updates for all Staff Augmentation workers to Purchaser via [nondworker@dominionenergy.com](mailto:nondworker@dominionenergy.com), to be delivered no later than seven (7) business days following the end of each month. The information requested will be the Supplier employee name, Purchase Order number, name of the individual identified as the Purchaser reports-to, Supplier name, hourly rate charged to Purchaser, and hours charged during the prior month and year-to-date. If Supplier does not provide this information, the Supplier will be notified and should provide the information promptly. For a copy of the preapproved template, contact Purchaser at [nondworker@dominionenergy.com](mailto:nondworker@dominionenergy.com).
      5. Exceptions. Individual exceptions to subparagraphs (A), (B), and (C) above may be approved by the Purchaser Affiliate (which may be by email) on a case-by-case basis.
8. **Waiver of Liens**
9. Waiver. To the extent Supplier receives payment for Work performed, Supplier waives, and shall require each Subcontractor to waive, any and all liens and claims, and the right to file and enforce or otherwise assert any liens and claims, against Purchaser or Purchaser’s property or facilities relating to any Work. Supplier shall include and shall require each Subcontractor to include this lien waiver provision in all agreements with Subcontractors. Purchaser reserves the right to require Supplier to provide lien waivers signed by each Subcontractor prior to releasing final payment, including any amounts retained pursuant to subsection 3(c) *Retention*, if applicable.

(b)-(d) [RESERVED]

1. **Records, Auditing, and Data Security**
2. Records and Right to Audit. Supplier shall keep accurate and complete books of account, records, and other documents (including without limitation all information, materials, and data that may have bearing on or pertain to any matters, rights, duties, or obligations of Supplier covered by this Agreement, hereinafter, “***Records***”) related to the provision of the Work and maintain accounting procedures and practices sufficient to reflect its direct and indirect (to include any home office overhead) costs incurred in providing Work, and shall require all Subcontractors (including without limitation subcontractors, suppliers, insurance carriers, and similar agents) to maintain such Records and be subject to an audit requirement no less restrictive than those contained in this Agreement. Purchaser and its representatives will have the right to inspect and audit those Records and interview relevant employees and other personnel of Supplier and Supplier’s Subcontractors of whatever tier, including any other person or visitor for whom Supplier or a Subcontractor is responsible (collectively, “***Supplier Personnel***”) at reasonable times upon reasonable notice.
3. Audit Procedures. Records must be made available by Supplier at Supplier’s offices, at all reasonable times, for inspection, audit, and reproduction, until the later of (i) the expiration of three (3) years from the date of Purchaser’s final payment or the final settlement or (ii) disposition of any claim made pursuant to this Agreement and Supplier shall provide Purchaser or Purchaser’s representative adequate and appropriate work space to conduct any audit under this Agreement. All Records for audit shall be provided in a commonly available electronic format that shall allow Purchaser to print, view and save. Each Party shall bear its own costs incurred in connection with any audit, unless Purchaser’s audit reveals that Supplier has passed on to Purchaser billing and invoicing inaccuracies greater than two percent (2%) of the compensation paid to Supplier in which case Supplier shall reimburse Purchaser for such overpayment and the cost of the audit. In the event that overhead of any sort is included in the Agreement, Supplier shall provide a clear definition of the components of such overhead.
4. Regulatory Examinations. Supplier agrees that any regulator or other governmental entity with jurisdiction over Purchaser and its Affiliates may examine Supplier’s activities relating to the performance of its obligations under this Agreement as directed by Purchaser or as otherwise required by law. Supplier shall promptly cooperate with and provide all information reasonably requested by the regulator or other governmental entity in connection with any such examination and provide reasonable assistance and access to all equipment, records, networks, and systems reasonably requested by the regulator or other governmental entity. Supplier agrees to comply with all reasonable recommendations that result from such regulatory examinations within reasonable timeframes.
5. Data Security.
   1. Cyber Security Controls. This paragraph applies to Supplier and its personnel and Subcontractors that provide hardware, software or Services to Purchaser that may impact the confidentiality, integrity or availability of Purchaser’s Protected Assets for the term of this Agreement. Supplier shall have and maintain security controls to protect Purchaser’s Protected Assets that are no less rigorous than the latest published version of ISO/IEC 27001 – Information Security Management Systems–Requirements, and ISO/IEC 27002 – Code of Practice for International Security Management. Supplier agrees to disclose to Purchaser known security vulnerabilities in hardware, software and services provided under this Agreement in a timely manner. Supplier warrants that the hardware, software and patches provided under this Agreement will not contain malicious code or any unwanted or unexpected features. Supplier agrees to provide a method to verify the integrity and authenticity of all software and patches provided by Supplier. If Supplier will have remote access to Purchaser systems or networks, Supplier shall follow all applicable Purchaser requirements for Supplier -initiated interactive remote access and system-to-system remote access with Supplier. To the extent Supplier’s personnel will have interactive remote access to Purchaser’s networks, systems or applications, Supplier’s personnel will use multi-factor authentication provided by Purchaser. Authentication tokens and passwords must not be shared. Upon either (i) personnel termination actions or (ii) changes in the status of personnel which removes their need for remote access, Supplier shall report such termination or change in status to Purchaser’s Service Desk by telephone and email as soon as practicable and no later than close of the same business day. In the case of sensitive personnel and/or involuntary termination, notification must be immediate. In all other cases, notification must be within one (1) business day.
   2. Assessment. Without limiting any other audit, inspection, or assessment rights of Purchaser in this Agreement, Purchaser shall have the right to confirm Supplier management, operational, and technical controls related to Supplier’s data security programs, including, but not limited to, compliance with the requirements of Section 22 *Confidential Information* and Section 23 *Protecting Personally Identifiable Information* (the “***Data Security Requirements***”). If this Agreement includes hosted or cloud services, Supplier shall provide annually to Purchaser a Statement on Standards for Attestation Engagements (SSAE) Service Organization Control (SOC) 2 Type II audit covering the scope of the contract and pertaining directly to Supplier. If this Agreement does not include hosted or cloud services, Supplier shall either, at Purchaser’s discretion, (A) provide Purchaser with a written, detailed questionnaire regarding Supplier’s information and data security programs, (B) annually provide Purchaser a copy of ISO 27001 certification covering the scope of this Agreement and pertaining directly to Supplier, (C) annually provide to Purchaser a copy of a third party’s audit results covering the security controls relevant to hardware, software or services provided under this Agreement and pertaining directly to Supplier and provide Supplier’s plans to correct any negative findings must also be made to the company and/or (D) allow Purchaser, and cause its Subcontractors to allow Purchaser, to conduct an assessment, audit, examination or review of Supplier’s security controls to confirm Supplier’s compliance with the Data Security Requirements and protection of Confidential Information (defined in Section 22) and PII (defined in Section 23), as well as any applicable laws, regulations and industry standards, not more than once per year or upon notification of any Breach of Security or complaint regarding Supplier’s privacy and security practices. Purchaser may elect to obtain the services of a mutually-agreeable third party to conduct this assessment, audit, examination or review on behalf of Purchaser. Purchaser shall give Supplier no less than thirty (30) calendar days’ notice of its intent to conduct such assessment, audit, examination or review. As part of this assessment, audit, examination or review, Purchaser may review all controls in Supplier’s physical and/or technical environment in relation to all Protected Assets being handled and/or hardware, software or services being provided pursuant to this Agreement. Supplier shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, application software and systems relevant to the provision of hardware, software or services under this Agreement.
   3. Remediation. If an inspection or assessment under subsection (i) above finds one or more issues which in Purchaser’s discretion require correction or remediation to comply with the Data Security Requirements, Supplier agrees to cooperate in good faith with Purchaser to create a plan to resolve the issue(s), including a timetable, and to implement that plan as agreed. Purchaser reserves the right to confirm Supplier’s progress and compliance. If Purchaser and Supplier do not mutually agree on the plan described above within a reasonable time, notwithstanding anything to the contrary in the Agreement, Purchaser may terminate the Agreement immediately upon written notice to Supplier with no additional liability to Supplier that otherwise would arise due to termination.
6. Compliance. No inspection or assessment by Purchaser under this Section 6 *Records, Auditing, and Data Security* will relieve Supplier of its obligation to comply in all respects with the Agreement.
7. **Acceptance**

Unless the Parties agree otherwise in a SOW, “***Acceptance***” occurs when Supplier has completed performance of all or part of the Work to Purchaser’s reasonable satisfaction. Purchaser’s Acceptance of the Work, or any portion of the Work, will not relieve Supplier of its obligation to comply in all respects with the requirements of this Agreement. Payment will not constitute Acceptance.

1. **Changes**
2. Change Orders. Purchaser may, at any time, by written change order and without notice to Supplier’s surety, if any, make changes to the scope of the Work to be provided pursuant to this Agreement (each a “***Change Order***”). If any such Change Order increases or decreases the time required for the provision of the Work, an equitable adjustment may be made to the Schedule. If this Agreement is being performed on a fixed-price or fixed-unit-price basis, and if any such change increases or decreases the cost to provide the Work, then there may be an equitable adjustment in Supplier’s compensation for the Work. Unless rate adjustments are expressly agreed upon elsewhere in this Agreement, Supplier will not be entitled to an adjustment in the compensation for future Work if this Agreement is being performed on a cost-reimbursable or time and materials basis.
3. Equitable Adjustment. Supplier’s right to an equitable adjustment in compensation, Schedule, or both, as a result of any Change Order initiated by Purchaser pursuant to this Section 8 *Changes*, is expressly conditioned upon Supplier providing Purchaser with a written request for adjustment within ten (10) days after receipt of Purchaser’s Change Order. Supplier’s request for an equitable adjustment in compensation, Schedule, or both must include a statement setting forth in reasonable detail Supplier’s estimate of the change in its costs or the Schedule, if any, together with any proposed adjustment in compensation, Schedule, or both. Failure to request a change within ten (10) days of the date Supplier knew or should have known of the need to request such a change shall be deemed a waiver of the right to a change for that occurrence. Supplier shall proceed with its performance obligations as changed prior to or pending agreement upon an equitable adjustment in the compensation, performance schedule, or both, and shall not halt or delay performance of the Work because of any failure so to agree.
4. [RESERVED]
5. **Specifications, Plans and Drawings**
6. Incorporation into Agreement. Specifications, plans, and drawings, both general and detailed, which relate to the Work (collectively “***Specifications***”) and are attached to a Purchase Order, referenced in this Agreement, or otherwise agreed upon by Purchaser and Supplier in writing, are incorporated into this Agreement.

(b)-(f) [RESERVED]

1. **Cleaning Up**

Supplier shall, at all times, keep its work area, including storage areas, free from wastes or rubbish. Purchaser will have no obligation with respect to Acceptance or final payment until Supplier has removed all wastes and rubbish relating to the Work, together with all of Supplier’s and each Subcontractor’s tools, scaffolding, equipment, and materials. Upon Acceptance of all Work, Supplier shall leave the premises in a clean, neat, and workmanlike condition reasonably satisfactory to Purchaser.

1. **Inspection and Expediting**
2. Manufacturing and Production. In addition to the audit rights set forth in Section 6 *Records, Auditing, and Data Security*, Supplier shall grant, and shall cause its Subcontractors to grant Purchaser reasonable access to Supplier’s and its Subcontractors’ manufacturing, design, storage facilities, and other facilities and working areas, both on and off-site, as reasonably necessary for Purchaser to audit Supplier’s compliance with its quality control and assurance programs, inspecting the Work, and expediting provision of the Work.
3. Access Requirements. The access to be granted by Supplier and its Subcontractors will include, but not be limited to, access to Supplier’s and its Subcontractors’ engineering offices, shops, storage facilities, and/or working areas, at all reasonable times and upon reasonable notice. Purchaser will have the right to confirm that the applicable specifications are being met. If the specifications require Purchaser to witness, perform, or verify certain actions during fabrication or otherwise, Supplier shall advise Purchaser of its fabrication schedule in sufficient time to allow Purchaser to conduct such inspections.
4. [RESERVED]
5. Compliance. No inspection or assessment by Purchaser under this Section 11 *Inspection and Expediting* will relieve Supplier of its obligation to comply in all respects with the Agreement.
6. **[RESERVED]**
7. **Warranties**
8. Quality of Services. Supplier represents and warrants that the Services will: (i) be performed in a good and workmanlike manner in accordance with professional industry standards (with the level of skill, knowledge, and judgment required or reasonably expected of providers of comparable services); (ii) meet the terms of this Agreement; (iii) comply with the Specifications; and (iv) be free from defects.
9. Quality of Materials and Equipment. Supplier represents and warrants that each item of Materials and Equipment provided under this Agreement will: (i) strictly conform to the description and Specifications contained in this Agreement; (ii) be free from defects in workmanship, materials and design for two (2) years from Acceptance of the Work or such longer period as is set forth in the manufacturer’s warranty or elsewhere in this Agreement; and (iii) be new. Unless otherwise stated in a Purchase Order, no surplus, rebuilt, reconditioned, or used material or equipment will be provided pursuant to this Agreement.
10. Warranty Claims. Upon receipt of written notice from Purchaser of a warranty claim, Supplier shall, if required by Purchaser, at Supplier’s sole expense, promptly repair, reperform, correct, or replace as determined by Purchaser, all portions of the Work that fail to conform to these warranties, including without limitation the removal of any non-conforming Work. Supplier shall reimburse Purchaser for any costs incurred by Purchaser incidental to such repair, reperformance, correction, or replacement. Supplier shall also perform such tests as Purchaser may reasonably require to verify that the repairs or replacements comply with the requirements of this Agreement. If Supplier fails within a reasonable time, or refuses, to repair, replace, correct, reperform, or remove the Work as required by Purchaser, Purchaser may, in its sole discretion, repair, replace, correct, reperform, or remove any Work, retain a third party to repair, replace, correct, reperform, or remove any Work, or take other reasonable remedial action, and in such event, Supplier shall promptly refund to Purchaser the portion of the compensation paid to Supplier for the defective Work, together with direct costs incurred by Purchaser for any repair, replacement, correction, reperformance, or removal of defective Work or shall pay such amounts as otherwise specified in this Agreement. If Purchaser does not require repair, replacement, correction, or reperformance of the Work, then Purchaser may make a corresponding reduction in the compensation due to Supplier. Any repair, replacement, correction, or reperformance made pursuant to this Agreement will be warranted for the later of: (i) one (1) year after completion of such repair, replacement, correction, or reperformance, or (ii) the end of the original warranty period.

(d)-(f) [RESERVED]

1. Information. Supplier represents and warrants to Purchaser that information provided by Supplier to Purchaser in connection with Purchaser’s due diligence of Supplier, whether provided prior to or after the effective date of this Agreement, is accurate and complete in all material respects. To the extent applicable to the Work, this includes, but is not limited to, information provided: (i) in connection with Purchaser’s Supply Chain registration process; (ii) responses to Purchaser’s Third Party Risk Management Questionnaire as described in Section 6 *Records, Auditing, and Data Security*; (iii) responses to Purchaser’s Supplier Diversity Subcontracting Requirements; (iv) in response to a request for bid or proposal; and (v) any other information provided by Supplier prior to or during performance of the Work upon which Purchaser may reasonably rely. Supplier shall promptly notify Purchaser in the event of any material changes to this information.
2. **Breach and Default**
3. Supplier’s Breach. If Supplier breaches this Agreement, then upon notice to Supplier and Supplier’s failure to cure pursuant to the terms of subsection (b) *Cure* below, Purchaser may, at its option, either remedy the breach or terminate this Agreement. If Purchaser elects to remedy Supplier’s breach, Purchaser may use whatever persons, entities, equipment, and materials it deems necessary to remedy the breach.
4. Cure. Except in the event of stoppage, delay, or interference, Supplier shall have three (3) business days from the date of Purchaser’s notice of termination to cure its breach of this Agreement prior to remedy or termination by Purchaser.
5. Purchaser’s Remedies. In the event of Supplier’s breach, Purchaser may recover from Supplier any costs, losses, or damages suffered or incurred as a result of or in connection with Supplier’s breach, including but not limited to Purchaser’s reasonable attorneys’ fees, penalties, increased costs, and all of Purchaser’s direct and indirect costs incurred or reasonably anticipated to be incurred by Purchaser to obtain replacement performance (“***Remedial Costs***”). Purchaser may deduct and withhold from payments otherwise due Supplier the amount of any Remedial Costs.
6. [RESERVED]
7. Supplier’s Remedies. Except as otherwise specified in this Agreement, Supplier has the rights and remedies available to it at law or in equity for Purchaser’s default of its payment obligations or other material breach of this Agreement, but Supplier’s remedies are contingent upon Supplier: (i) within one (1) week of Purchaser’s alleged default or breach, giving Purchaser written notice with specific details describing the alleged default or breach; and (ii) after Purchaser’s receipt of such notice, allowing Purchaser ten (10) days to cure such breach.
8. Limitation of Liability. Neither Party shall be liable hereunder for consequential or punitive damages (including lost profits or savings) even if it has been advised of their possible existence, except that the foregoing shall not restrict a Party’s ability to recover actual damages for breach of this Agreement. In no event shall the total and cumulative liability of either Party to the other under this Agreement for any claim or claims hereunder concerning performance or nonperformance hereunder exceed five (5) times the aggregate value of this Agreement. Notwithstanding the foregoing, the limitations in this Section 14 *Breach and Default* shall not apply to: (i) Supplier’s breach of Section 5 *Waiver of Liens*; (ii) Supplier’s obligations under Section 15 *Indemnity* or Section 21 *Intellectual Property Infringement*; (iii) Supplier’s breach of Section 18 *Compliance with Laws; Banned Technologies*; (iv) Supplier’s breach of its confidentiality obligations under Section 22 *Confidential Information*; (v) Supplier’s breach of its obligations under Section 23 *Protecting Personally Identifiable Information* if the breach involves or is related to any Regulated PII (defined in Section 23); (vi) Supplier’s gross negligence (defined below) or willful misconduct; or (vii) Supplier’s obligation to provide the Work. For purposes of this Agreement, “***gross negligence***” means a degree of negligence showing indifference to and an utter disregard of prudence amounting to a complete neglect of the safety of other persons.
9. **Indemnity**

To the extent allowed by law, Supplier agrees to indemnify, hold harmless and at Purchaser’s sole option, defend Purchaser, Purchaser’s Affiliates, and each of their respective directors, officers, employees, contractors, and agents (each an “***Indemnitee***”) from and against any and all claims, demands, costs, losses, liabilities, lawsuits, or other proceedings brought or threatened by any third party, including but not limited to an Indemnitee, Supplier, any of Supplier’s employees or agents, any Subcontractor, or any Subcontractors’ employees or agents, arising out of, resulting from, caused by, or in connection with this Agreement and/or the Work (each a “***Third Party Claim***”) or by Purchaser in relation or response to a Third Party Claim (each a “***Related First Party Claim***”), and to pay all of each Indemnitee’s costs in connection with, arising from, or relating to any Third Party Claim or Related First Party Claim, including but not limited to, any judgment, amounts paid in settlement, fines, penalties, forfeitures, and expenses (including reasonable attorneys’ fees through final appeal), whether at law, in equity, or administrative in nature, for: (a) personal injury or death; (b) property damage; (c) violation of law, regulation, rule or ordinance (including but not limited to data privacy laws); (d) any Breach of Regulated PII (defined in Section 23), regardless of whether an Indemnitee is required to take any action under any state or federal law; or (e) Supplier’s breach of this Agreement. Supplier will not be liable under this Section 15 *Indemnity* for any personal injuries, deaths, or property damage to the extent caused by an Indemnitee’s sole negligence, gross negligence, or willful misconduct as determined by a court in a final adjudication.

1. **Insurance**
2. Coverage. During the term of this Agreement, Supplier shall obtain and maintain the policies of insurance set forth in the attached *Insurance Requirements* Appendix (the “***Insurance Requirements***”), incorporated by this reference, with responsible insurance carriers having a Best’s Insurance Reports rate of “A-” or better and a financial size category of “IX” or higher. Payment of all insurance costs, deductible amounts, and/or self-insured retentions shall be Supplier’s sole responsibility.
3. Subcontractors. Supplier shall also require each Subcontractor to obtain and maintain insurance consistent with and covering the risks and perils for which provision is made in this Section 16 or ensure that its Subcontractors are covered under Supplier’s insurance policies.
4. Waiver. Supplier waives and shall cause its insurers to waive all rights against Purchaser and its Affiliates, and their directors, officers and employees, whether in contract or tort (including negligence and strict liability) for recovery of losses or damages to the extent these losses or damages are covered by the insurance required by this Agreement. The insurance required by this Agreement will be amended to waive any rights by the insurer to subrogate against Purchaser, its Affiliates, and their directors, officers, and employees.
5. Additional Insureds. Supplier shall cause its insurers providing the coverage required by this Agreement, and shall require each Subcontractor to cause each of its insurers providing the coverage required by this Agreement, except for the insurers providing the Worker’s Compensation and if applicable, Professional Liability and Cyber Liability insurance, to name Purchaser, Purchaser’s Affiliates and each of their officers, directors, employees, and contractors, as additional insureds to the coverages required above as their interests attach with respect to liability arising out of the Work or Supplier’s performance of its obligations pursuant to this Agreement. The CGL, Automobile Liability, and, if applicable, the Umbrella, Professional, Cyber, Pollution, and Aircraft Liability coverage required by this Agreement will provide for claims by one insured against another such that, except for the limits of insurance, the insurance will apply separately to each insured against whom or which a claim is made or suit is brought.
6. Primary Coverage. Supplier and each Subcontractor shall ensure that the coverage required by this Agreement is primary and non-contributory where additional insured status is provided with respect to any other similar insurance or self-insurance maintained by Purchaser.
7. Cancellation of Coverage. The coverage required by this Agreement may not be canceled, nonrenewed, or materially changed without Supplier giving thirty (30) days prior written notice to Purchaser, except 10 days notice in the event of nonpayment of premium.
8. Certificates of Insurance. No later than thirty (30) days prior to site mobilization, Supplier shall endeavor to provide certificates of insurance to Purchaser from Supplier’s and each Subcontractor’s insurers, certifying that Supplier’s and Subcontractor’s insurance coverage is in the form and amount required by this Agreement. Failure of Purchaser to demand certificate(s) of insurance or other evidence of full compliance with these insurance requirements or failure of Purchaser to identify a deficiency from evidence that is provided will not be construed as a waiver of Supplier’s obligation to maintain such insurance and will in no way relieve or limit Supplier’s obligations and liabilities under this or any other provisions of this Agreement.
9. Substitute Coverage. If during the term of this Agreement Supplier’s or any Subcontractor’s insurance coverage is terminated, then Purchaser may procure, on Supplier’s or Subcontractor’s behalf, insurance that meets the requirements of this Agreement. Any premiums or other costs or fees (including without limitation fees paid to any insurance broker or agent) incurred as a result of procuring substitute coverage may be charged to Supplier.
10. Insurance No Limit to Liability. Unless otherwise expressly stated, the Parties agree that any requirement for insurance imposed upon Supplier or Subcontractors by this Agreement is not intended nor shall it be construed as any limit of liability of Supplier under this Agreement.
11. Insurer Insolvency. The insolvency, liquidation, bankruptcy, or failure in any way of an insurer providing insurance required by this Agreement, or the failure of any such insurer to defend or cover in full the obligations under this Agreement, shall not be considered a waiver of, nor shall it excuse Supplier from complying with, any of the provisions of this Agreement.
12. **Suspension; Termination**

(a)-(b) [RESERVED]

1. Termination for Convenience. Purchaser may, without cause, terminate this Agreement at any time, in whole or in part, by providing written notice of termination to Supplier specifying the portion of the Work to be terminated (the “***Terminated Work***”). The termination will be effective as specified in Purchaser’s notice of termination but not earlier than one (1) business day after Supplier’s receipt of the notice. Upon receipt of such notice, Supplier shall: (i) discontinue the Terminated Work in accordance with Purchaser’s instructions (provided that if discontinuance of the Terminated Work would cause a safety risk, Supplier shall immediately notify Purchaser of such safety risk and continue to perform the Terminated Work until receiving further guidance from Purchaser); (ii) continue to provide any portion of the Work not terminated; (iii) not place further orders or enter into further subcontracts related to the Terminated Work; and (iv) terminate all existing orders and subcontracts insofar as such orders and subcontracts relate to the performance of the Terminated Work. Supplier shall, within fifteen (15) days of the termination date specified in the notice of termination, deliver to Purchaser the Materials and Equipment for which Purchaser has made payment, including all Materials and Equipment in manufacture but not yet completed, and any other deliverables in this Agreement whether or not in final form.

(d) Obligations on Termination and Termination Assistance. In addition to any other obligations that arise on termination or expiration of this Agreement, the parties agree that, on any expiration or termination of this Agreement, upon completion of the delivery of the Work and Services to be provided under this Agreement, or at any time upon Purchaser’s request, regardless of the circumstance:

* 1. If Supplier has access to Purchaser’s facilities or systems, Supplier shall immediately surrender to Purchaser all access cards, security passes, passwords and other such devices granting access to any Work site or to Purchaser Protected Assets;
  2. If Supplier has Purchaser data, Supplier shall return any Purchaser data that is in its care, custody or control to Purchaser in the format requested by Purchaser and Supplier shall, after receiving Purchaser’s written confirmation that it can read the data provided by Supplier, permanently delete any copies of the data in Supplier’s care, custody or control; and
  3. If Supplier has Purchaser hardware or removable media, Supplier will return to Purchaser all hardware and removable media provided by Purchaser that contains Purchaser data. Purchaser data in such returned hardware and removable media may not be removed or altered in any way. The hardware should be physically sealed and returned via a bonded courier or as otherwise directed by Purchaser. If the hardware or removable media containing Purchaser data is owned by Supplier or a third-party, a written statement detailing the destruction method used and the data sets involved, the date of destruction and the entity or individual who performed the destruction will be sent to a designated Purchaser security representative within fifteen (15) calendar days after completion of the delivery of the products and services to be provided under this Agreement, or at any time upon Purchaser’s request. Supplier’s destruction or erasure of Purchaser data pursuant to this paragraph must be in compliance with NIST or ISO Standards.

(e) Prior to the expected expiration or termination of this Agreement for any reason, Supplier agrees to provide Purchaser with the reasonable assistance services requested by Purchaser. These services will include, at a minimum, converting data, providing parallel services until Purchaser has transitioned to a new system, providing on-site technical support, cooperating with Purchaser or its designated vendor in developing required interfaces, and such other assistance services as shall be necessary or appropriate to facilitate, without material or extended interruption to the Services, the orderly transition of the Services to Purchaser or its new provider of services. The parties agree that assistance services may extend beyond the Term as reasonably required by Purchaser.

1. **Compliance with Laws; Banned Technologies**
2. General. Supplier and any Subcontractors shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the provision of the Work.  Without limiting the foregoing, Supplier and any Subcontractors shall comply with all bans and/or restrictions related to the applicable use of certain foreign technologies as set forth in 48 CFR 52.204-23 and 48 CFR 52.204-25 (the full text of which may be found at [www.acquisition.gov](http://www.acquisition.gov)), and shall include these requirements in any subcontracts and other contractual instruments related to the provision of the Work.
3. Banned/Prohibited Technologies. Notwithstanding subsection (a) above, Supplier and any Subcontractors shall not use in the provision of Work or Services any hardware, software, service, components, or telecommunications or video surveillance equipment or services provided or developed from any company identified by Purchaser or by the U.S. Government and/or regulatory authorities as a security threat (collectively, the “***Prohibited Vendors***”), including, without limitation, the companies identified by the U.S. Department of Commerce (which are currently posted on the internet at [https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear](https://urldefense.com/v3/__https:/www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear__;!!KQQRbYJqkXCDY_8FAQ!Qz36NTvxhNja2B7m3Gfi0TkCIkAf9Y2SoSYjVj4maYX2FkNFCWEC9Um40pBEcaReQaK8Ax-73A$) and as published in 15 CFR, Subchapter C, part 744, Supplement No. 4) and the following identified by Purchaser herein:
   1. Kaspersky Lab, any successor entity to Kaspersky Lab, or any entity that controls, is controlled by (or which Kaspersky Lab has a majority ownership of), or is under common control with Kaspersky Lab;
   2. Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
   3. Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
   4. Da Jiang Innovations (DJI) drone technology;
   5. Equifax identity check or credit monitoring services;
   6. Any other technology which is or becomes subject to similar restrictions or bans and for which Purchaser notifies Supplier in writing of the applicable restriction(s) or ban; and
   7. Any products or services listed on and/or manufactured by vendors listed on the prohibited products, services and vendors list included in Purchaser’s Information Systems Policy and available upon request, including but not limited to Chinese and Russian vendors, as such list may be updated from time to time.

Supplier is responsible for being familiar with the Prohibited Vendors, including additional Prohibited Vendors that Purchaser may identify by notice to Supplier and that the U.S. Government may identify from time to time during the term of this Agreement. If Supplier fails to abide by the requirements of this paragraph, Purchaser will provide Supplier with notice and a 30-day opportunity to cure. Continued failure to abide by this requirement will be considered a material breach of this Agreement.

1. Nondiscrimination and Notice of Rights. **Supplier and any Subcontractors shall abide by the requirements of 41 CFR Sections 60-1.4(a); 60-300.5(a); and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require affirmative action by covered prime contractors and subcontractors to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.** Supplier and any Subcontractors shall abide by the requirements of 29 C.F.R. Part 471, Appendix A to Subpart A.
2. Small, Local, and Diverse Businesses. The Purchaser Affiliates are committed to workforce diversity and the development of small businesses, local businesses, and diverse businesses. Diverse businesses include, but are not limited to: minority-owned, woman-owned, veteran or service disabled veteran-owned, HUBZone, and disadvantaged businesses; disability-owned enterprises; and LGBT-owned enterprises. Purchaser expects Supplier to provide maximum practicable opportunities for small, local, and diverse businesses to participate in any subcontracts Supplier awards or intends to award related to the Work, and to report actual subcontracted diverse spend to Purchaser on at least a quarterly basis. If applicable, Supplier and any Subcontractors shall comply with the provisions relating to the utilization of small business concerns as set forth in 15 U.S.C. § 637, as amended, and 48 C.F.R. §§ 52.219-8 and 52.219-9, which are hereby incorporated by reference and made part of this Agreement. If (i) this Agreement has a value of more than $700,000 and (ii) Supplier is not designated as a small business for this engagement per Small Business Administration guidelines, Supplier shall adopt and comply with a Small Business and Small Disadvantaged Business Subcontracting Plan which shall conform to the requirements set forth in 15 U.S.C. § 637(d)(6), and shall comply with applicable portions of Purchaser’s Supplier Diversity Subcontracting Requirements which are incorporated herein by reference.
3. Anti-bribery and Anti-corruption. Supplier and any Subcontractor shall fully comply with the U.S. Foreign Corrupt Practices Act of 1977, as amended (“***FCPA***”), the U.K. Bribery Act 2010 and any similar laws, rules and regulations of any jurisdiction that are applicable to Supplier or any Subcontractor, or their owners, officers or employees, including those of any countries in which they will perform any activity under or relating to this Agreement, and all countries otherwise having jurisdiction over the activities performed under or subject matter of this Agreement. Supplier represents, warrants and covenants that in connection with this Agreement it and any Subcontractor have not and will not, directly or indirectly, pay, give, offer, promise or authorize the provision of any money or other thing of value to any person in order to improperly affect any act or decision, improperly assist a Party in obtaining, retaining or directing business, or to otherwise secure any improper advantage; and acknowledges that the improper offering or providing of such things of value is strictly in violation of this Agreement and may result in immediate termination of this Agreement for cause.
4. Ethical Compliance. Supplier and any Subcontractor shall not offer or provide any commissions, payments, cash or things that can be converted to cash, gifts of more than nominal value, kickbacks, lavish or extensive entertainment, travel expense, or other things of more than nominal value to any employee or agent of Purchaser or members of the employee’s or agent’s family. Supplier acknowledges that the offering or providing of such commissions, payments, cash or things that can be converted to cash, gifts, kickbacks, entertainment, travel, or other things of more than nominal value is strictly in violation of this Agreement and may result in termination of this Agreement. Subject to the terms and conditions of this Agreement, Purchaser expects all Suppliers and Subcontractors to adhere to the principles set forth in Purchaser’s Supplier Code of Conduct, which is attached hereto as an Appendix.
5. Export.
6. Compliance with Export Laws.
   * 1. Supplier and any Subcontractor shall comply with all U.S. laws and regulations, including, but not limited to, the U.S. Department of Energy regulations on “Assistance to Foreign Atomic Energy Activities,” as codified at 10 C.F.R. Part 810 (“***Part 810***”), the Export Administration Regulations, as codified at 15 C.F.R. Parts 730 to 774 (“***EAR***”), and any other applicable U.S. export control laws and regulations (“***U.S. Export Laws***”), that prohibit, without first securing a license or authorization from the U.S. Government, the export or re-export, including the release within the United States to individuals who are not (1) citizens of the United States, (2) a U. S. lawful permanent residents or (3) protected individuals under the Immigration and Naturalization Act (8 U.S.C 1324b(a)(3)) (each a “***Foreign National***”) (“***Deemed Exports***”), of certain restricted or controlled goods, technology, software, information or data including, but not limited to, information concerning the design, fabrication, construction, operation and maintenance of Purchaser’s nuclear reactors, related components and subsystems, and any other items subject to restriction pursuant to the U.S. export control laws and regulations (collectively, “***Restricted Commodities***”).
     2. Supplier shall obtain any export license, permit or government authorization from the applicable U.S. government agencies that may be required for the exports, re-exports and Deemed Exports of any Restricted Commodities, that may occur as a result of Supplier’s or any Subcontractor’s retransfer of Restricted Commodities to third parties or Supplier’s or any Subcontractor’s use of persons who are Foreign Nationals to provide the Work.
     3. In addition, upon Purchaser’s request, Supplier shall provide Purchaser with verification of Supplier’s and any Subcontractor’s compliance with this paragraph consisting of: (1) copies of export licenses, permits, or authorizations granted by the applicable U.S. government agencies; (2) Supplier personnel citizenship verification information, including such information for employees of Subcontractors; (3) evidence of completed screening for denied parties, including screening against the Specially Designated Nationals List (“***SDN List***”), maintained by the U.S. Department of Treasury’s Office of Foreign Asset Control (“***OFAC***”), the Denied Persons, Entity and Unverified Lists maintained by the U.S. Department of Commerce’s Bureau of Industry and Security (“***BIS***”), Nonproliferation Sanctions List maintained by the U.S. Department of State, and any other lists incorporated into the Consolidated Screening List maintained by the U.S. Government at Export.gov (“***Denial Lists***”); and (4) any other relevant documentation that Purchaser might reasonably request. The obligations of Supplier under this paragraph shall survive any termination, expiration or discharge of any other contract obligations. Supplier represents and warrants that it and any Subcontractor are in compliance with, and shall not cause Purchaser to violate, any requirements and regulations related to the Denial Lists. In the event of any breach of the foregoing warranty, this Agreement shall be deemed void ab initio and Supplier shall refund Purchaser any amounts paid hereunder and Purchaser shall owe no further amounts to Supplier hereunder.
7. Suppliers Providing Labor to Purchaser’s Nuclear Facilities. Suppliers providing workers to Purchaser’s nuclear power reactor facilities either directly or via any Subcontractor, where such workers are granted unescorted access to Purchaser’s nuclear power reactor facilities, are required to identify any workers who are Foreign Nationals and for each such worker:
8. Provide a copy of that individual’s resume (or equivalent description of experience), copies of passport and visas and provide additional information as requested by Purchaser.
9. Foreign Suppliers: Compliance with 10 C.F.R. Part 810 Controls Additional Requirements. If Supplier or any Subcontractor is organized outside of the United States (a “***Foreign Supplier***”) and is provided by Purchaser, during Supplier’s or any Subcontractor’s provision of the Work, technology, software, information or data related to the design, fabrication, construction, operation, or maintenance of a nuclear power plant that is not publicly available and that is controlled by the U.S. Department of Energy in accordance with Part 810 (“***Part 810-Controlled Technology***”):
10. Supplier shall obtain Purchaser’s consent before it or any Subcontractor engages in a re-export of Purchaser’s Part 810-Controlled Technology to countries not listed in Appendix A to 10 C.F.R. Part 810 (each a “***Restricted Destination***”), including any Deemed Exports of Part 810-Controlled Technology to nationals or dual nationals of Restricted Destinations (“***Part 810-Controlled Re-export***”). Should providing such consent require Purchaser to obtain a Part 810 specific authorization from the Department of Energy in accordance with 10 C.F.R. §810.7, the Supplier seeking to engage in the Part 810-Controlled Re-export either directly or via any Subcontractor shall bear the costs and expenses associated with obtaining such a specific authorization.
11. Before engaging in a Part 810-Controlled Re-export to a country listed in Appendix A to 10 C.F.R. Part 810(a “***Generally Authorized Destination***”), Supplier shall ensure that it or any Subcontractor involved has an agreement in place with the recipient ensuring that any subsequent Part 810-Controlled Re-export to a Restricted Destination will take place only upon approval from the U.S. Department of Energy.
12. Classified Commodities Provided to Purchaser. To the extent any goods, technology, software, information or data being provided by Supplier or any Subcontractor to Purchaser has been classified by Supplier, any Subcontractor or otherwise as being subject to export licensing requirements pursuant to the U.S. Export Laws, such as having been designated as falling under an Export Control Classification Number (“***ECCN***”) pursuant to the EAR, Supplier shall notify Purchaser of that export classification in writing, no later than at the time of delivery. In the event Purchaser has reasonable concerns over a classification that has been made by Supplier or any Subcontractor or over a failure to make a classification, Purchaser may request that Supplier justify any classification that has been made or that Supplier, at its own expense, obtain a conclusive determination of the classification from the relevant agency of jurisdiction. Supplier’s refusal or failure to obtain such a determination shall, at Purchaser’s sole option, serve as a basis for termination of this Agreement.
13. Prohibited Imports. Supplier must take all reasonable efforts to: (1) prohibit importing and then selling to Purchaser, or (2) using in its supply-chain, any product that was mined, produced, or manufactured wholly or in part by forced labor, including forced or indentured child labor pursuant to the Tariff Act of 1930, 19 U.S.C. § 1307. “Forced labor” shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, included forced or indentured child labor. A list of such products can be found on the Internet at https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods. Supplier is responsible for being familiar with the products posted by the Department of Labor, which may change from time to time during the Term of this Agreement. If Supplier fails to abide by the requirements of this section, Purchaser will provide Supplier with Notice and a thirty (30) day opportunity to cure. Continued failure to abide by this requirement will be considered a material breach of this Agreement.
14. Fines. Supplier will be solely responsible for and shall pay all costs and expenses associated with all fines or other penalties incurred by Purchaser or Supplier for Supplier’s or any Subcontractor’s noncompliance with any law, code, or regulation, or any costs (including Purchaser’s reasonable attorneys’ fees) arising from, in connection with, or relating to delays or stop work orders imposed by a government agency or court due to Supplier’s or any Subcontractor’s noncompliance with law. This subsection (i) *Fines* is not intended to limit Supplier’s right to make claims against any Subcontractor with respect to the Subcontractor’s failure to comply with law, but Supplier shall not condition any payment to Purchaser on the existence of any claim against any Subcontractor.
15. **Permits, Licenses, and Registrations**

Except as otherwise provided in this Agreement, Supplier shall obtain, and shall require each Subcontractor to obtain, any licenses, permits, and registrations that it may be required by any law, regulation, or ordinance to hold in order to perform its obligations under this Agreement. Supplier shall and shall cause each Subcontractor to comply with all applicable laws, regulations, or ordinances that require registration and licensing of contractors and subcontractors. Supplier and each Subcontractor shall hold and maintain those licenses and permits during the term of this Agreement and shall provide copies of them to Purchaser if requested. Such licenses and permits and registrations shall include, but not be limited to any and all contractor licenses, engineer licenses, or building and environmental permits necessary to provide the Work.

1. **Intellectual Property Ownership**
2. Ownership of Work. All Work produced pursuant to this Agreement, and all intellectual property rights in such Work is understood by the Parties to be “work made for hire” under the laws of the United States and shall be the sole and exclusive property of Purchaser. If the Work or any portion thereof is not deemed to be work made for hire under 17 U.S.C. §101, Supplier hereby transfers and assigns to Purchaser, and Purchaser hereby accepts all right, title and interest in and to all copyrights and other intellectual property rights in the Work. Supplier agrees that, despite any notices or markings to the contrary, Purchaser owns all right, title, interest in and to and has the unrestricted right to reproduce and utilize any and all Work created, invented, developed or produced pursuant to this Agreement, including all derivative works thereto. Supplier agrees to execute any other documents or to provide any further materials or documentation necessary to effect the intent of this paragraph and the purpose of this assignment or to substantiate Purchaser’s ownership of the Work.
3. Ownership of Purchaser Intellectual Property. As between Purchaser and Supplier, any Purchaser IP (defined below) provided to Supplier by Purchaser shall at all times remain the property of Purchaser. Supplier shall have no rights in Purchaser IP, except for the limited right to use Purchaser IP in connection with the Work during the term of this Agreement as set forth in subsection (c) *License to Purchaser IP* below. “***Purchaser IP***” means (i) any Work produced for Purchaser pursuant to this Agreement, (ii) any and all Purchaser business information and intellectual property including, without limitation, trade secrets, trademarks or service marks, copyrights, patents, derivations, discoveries, concepts and ideas including, without limitation, the nature and results of research and development activities, processes, formulas, data, inventions, equipment, hardware, circuitry, technology, techniques, “know-how,” designs, prototypes, methods, pictures, drawings and specifications, and (iii) any derivative works of any of the foregoing. As between Purchaser and Supplier, all of the following, excluding any Supplier IP (defined below), shall also be deemed to be the property of Purchaser: (i) computer equipment that Purchaser owns or has the lawful right to use (“***Computer Equipment***”), software that Purchaser owns or has the right to use (“***Software***”), and the data contained on the Computer Equipment and in the Software (“***Data***”); (ii) all routines, techniques and instructions relating to the Computer Equipment, the Software, and the Data contained thereon; (iii) all source documents for and reports and information derived or derivable from the Software; and (iv) all cards, magnetic tapes, disks and other computer media, whether permanent or temporary, containing the Software or the Data.
4. License to Purchaser IP. Purchaser grants to Supplier a non-exclusive, non-transferable, limited license to use such Purchaser IP as Purchaser may provide to Supplier from time to time, and to make derivative works based upon Purchaser IP, all solely during the term of this Agreement and solely for the benefit of Purchaser, to fulfill Supplier’s obligations under a specific SOW. Supplier shall not use Purchaser IP for any purpose other than that of fulfilling Supplier’s obligations under this Agreement. Supplier shall at all times treat Purchaser IP as Confidential Information.
5. Ownership of Supplier Intellectual Property. Purchaser acknowledges that, as between Supplier and Purchaser, any intellectual property that Supplier developed independently of Purchaser and/or pre-exists Supplier’s performance of the Work pursuant to this Agreement (“***Supplier IP***”) is the sole and exclusive property of Supplier. If any Supplier IP is incorporated into the Work or any Deliverable, Supplier hereby grants to Purchaser a perpetual, irrevocable, non-exclusive, worldwide, freely transferable license to use, reproduce, publicly perform, publicly display, and digitally perform such Supplier IP, as necessary to use, maintain, and further modify the Work, in any media now known or hereafter discovered, together with the right to further sublicense the foregoing rights to any Affiliate.
6. [RESERVED]
7. **Intellectual Property Infringement**
8. Intellectual Property Indemnity. In addition to and not in lieu of the remedies provided to Purchaser in Section 15 *Indemnity* of this Agreement, Supplier agrees to indemnify, hold harmless and, at Purchaser’s sole option, defend each Indemnitee from and against any and all third party claims based in whole or in part on an allegation that all or any portion of the Work, or use thereof for its intended purpose, constitutes an infringement of any third party claim of patent, copyright, trademark, or a misappropriation of a trade secret (each an “***Infringement Claim***”), and pay all of each Indemnitee’s costs in connection with, arising from, or relating to any such Infringement Claim, including but not limited to any judgment, amounts paid in settlement, fines, penalties, forfeitures, and expenses (including reasonable attorneys’ fees through final appeal), whether at law, in equity, or administrative in nature. In addition, at Purchaser’s option and at no cost to Purchaser, Supplier shall (i) procure for Purchaser the right to continue using the Work, or applicable portion thereof, (ii) replace all that infringes with substantially equivalent noninfringing replacements, (iii) modify same to be noninfringing, or (iv) pro-rate and refund such compensation as is attributable to the applicable Work.
9. [RESERVED]
10. **Confidential Information**
11. Confidential Information Defined. For purposes of this Agreement, the term “***Confidential Information***” means each Party’s proprietary and confidential information in any medium including, without limitation: (i) any trade secret, know-how, invention, software program, application, documentation, schematic, procedure, contract, information, knowledge, data, process, technique, design, drawing, program, formula, test data, work in progress, engineering, manufacturing, marketing, financial, sales, supplier, customer, employee, investor, or business information, whether in oral, written, graphic, or electronic form; (ii) any document, diagram, photograph, drawing, computer program, or other communication that is either conspicuously marked “confidential” or the like or is known or reasonably should have been known by the other Party to be confidential, or is of a proprietary nature, and is learned or disclosed in the course of discussions, studies, or other work undertaken between the Parties; (iii) Critical Energy Infrastructure Information as defined in 18 CFR § 388.113 (as it may be amended from time to time), and (iv) any memoranda, notes, correspondence, facsimile transmissions, e-mail messages, recordings, and all other materials that contain, summarize, or describe any portion of that which is mentioned in items (i), (ii), or (iii) above. For purposes of this Agreement, the Party disclosing Confidential Information is referred to as the “***Disclosing Party***” and the Party receiving information from the Disclosing Party, whether directly (as in Supplier’s receipt of Confidential Information from Purchaser) or indirectly (as in a subcontractor of Supplier’s receipt of Confidential Information of Purchaser from Supplier) is referred to as the “***Receiving Party***.”
12. Non-protected Information. Confidential Information does not include anything that: (i) at the time it is disclosed to the Receiving Party, the information is already in the Receiving Party’s possession or available to it or its employees from any other source having no obligation to the Disclosing Party; (ii) is or becomes available to the public without breach of this Agreement by the Receiving Party, its Subcontractors, consultants, or agents or any of their respective employees; (iii) is at any time obtained by the Receiving Party from any person or entity having no obligation to or relationship with the Disclosing Party; or (iv) is developed independently by the Receiving Party without use of or reference to the Disclosing Party’s Confidential Information.
13. Limited Use. The Parties acknowledge that access to each other’s Confidential Information is only for purposes of performing their respective obligations under this Agreement (“***Authorized Use***”) and that they shall maintain the Confidential Information in the strictest confidence. Supplier shall not, without first obtaining the express prior written permission of Purchaser, which consent may be withheld in Purchaser’s absolute and sole discretion: (i) directly or indirectly use Purchaser’s Confidential Information in its business; (ii) manufacture and/or sell any product that is based in whole or in part on Purchaser’s Confidential Information; (iii) copy or modify Purchaser’s Confidential Information, or any copy or portion of it; or (iv) disclose Purchaser’s Confidential Information to any third party or any employee of Purchaser and its Affiliates who is identified to Supplier by Purchaser. Supplier shall limit its disclosure of Purchaser’s Confidential Information to Supplier employees and Subcontractors who have a legitimate need to receive the Confidential Information in order to accomplish the Authorized Use and who have executed an agreement to be bound by the terms of this Section 22 *Confidential Information*. Purchaser may disclose Supplier’s Confidential Information to (i) third party contractors and service providers in connection with Purchaser’s use and receipt of the Work (provided that they are subject to contractual obligations to keep such Supplier Confidential Information confidential) and (ii) Purchaser’s Affiliates. Without limiting the foregoing, in performing the obligations described in this Section 22 *Confidential Information*, the Receiving Party shall conduct itself, and shall cause its employees to conduct themselves, in accordance with the highest standards established by law with respect to the duties of a person in a position of trust with regard to the obligations described in this Section 22 *Confidential Information*. Under no circumstances will Supplier serve as a “conduit for the exchange of market information” (*see* 18 C.F.R. 358.6) between employees of Purchaser and its Affiliates in any manner that would violate the law or codes of conduct applying to Purchaser and its Affiliates.
14. Proprietary Protection. The Disclosing Party will have sole and exclusive ownership of all right, title, and interest in and to its Confidential Information, including without limitation ownership of all copyrights and trade secrets pertaining to that Confidential Information, subject only to the rights and privileges expressly granted by the Disclosing Party to the Receiving Party.
15. Consultants. Prior to disclosing Purchaser’s Confidential Information to a Subcontractor, consultant, or agent, Supplier shall first obtain a written agreement from that Subcontractor, consultant, or agent to be bound by the terms of this Section 22 *Confidential Information*.
16. Return of Confidential Information. Upon termination of this Agreement or at any time at the request of the Disclosing Party, the Receiving Party shall: (i) deliver promptly to the Disclosing Party all of the Disclosing Party’s Confidential Information in the Receiving Party’s possession or under its control that is in tangible form; and (ii) permanently destroy (including deletion of permanent and temporary files, if any, stored on computers or other electronic devices) all of the Disclosing Party’s Confidential Information in its possession that is in electronic or other intangible form. Additionally, if at any time prior to termination of this Agreement Supplier no longer requires access to or possession of all or part of Purchaser’s Confidential Information to perform the Work, Supplier shall promptly return or destroy such Confidential Information as described above. If requested by the Disclosing Party, the Receiving Party shall deliver a certificate certifying that it has satisfied the requirements of this Section 22 *Confidential Information*. Notwithstanding the foregoing, to the extent it would be unreasonably costly or cumbersome, the Receiving Party shall not be required to delete intangible copies of Confidential Information that have been made as part of the Receiving Party’s routine systems back-up procedures.
17. Security. The Receiving Party shall safeguard and maintain the confidentiality of any Confidential Information disclosed to it by the Disclosing Party in at least the same manner in which it protects its own confidential and proprietary information of like kind and sensitivity, but in no event with less than reasonable care. The Receiving Party shall assume full responsibility for breaches of this Agreement by any of its employees, Subcontractors, consultants, or agents or any of their respective employees. In the event of a breach, suspected breach or unauthorized release of the Disclosing Party’s Confidential Information the Receiving Party shall provide immediate notice to the Disclosing Party, and, in the case of a breach of PII, such notice shall also comply with Section 23 *Protecting Personally Identifiable Information*. Such notice shall include sufficient detail regarding the incident or suspected incident to the reasonable satisfaction of the Disclosing Party. Upon the Disclosing Party’s request at any time, the Receiving Party shall provide a list, including contact information, of individuals and entities to whom or which the Receiving Party has granted access to the Disclosing Party’s Confidential Information.
18. Court-Ordered Disclosure. Notwithstanding the above restrictions, the Receiving Party may disclose the Disclosing Party’s Confidential Information if that disclosure is pursuant to a valid order of a court or authorized agency of government, but the Receiving Party shall, to the extent permitted by law, give the Disclosing Party ten (10) days’ prior notice so that the Disclosing Party may seek a protective order, if appropriate. If the Disclosing Party seeks a protective order, the Receiving Party shall cooperate, at the Disclosing Party’s expense, in seeking the protective order.
19. No Conveyance or License. Neither Party intends by this Agreement to convey to the other Party any right, title, interest, or copyright in any Confidential Information or any license to use, sell, exploit, copy, or further develop any Confidential Information, except in connection with this Agreement.
20. Injunctive Relief. The Parties hereby acknowledge that a Receiving Party’s breach of the provisions of this Section 22 *Confidential Information* will cause the irreparable damage to the Disclosing Party for which recovery of money damages would be an inadequate remedy. The non-breaching Party will, therefore, be entitled to obtain timely injunctive relief to protect its rights under this Section 22 *Confidential Information* in addition to any other remedies available to it at law or pursuant to this Agreement without the need to post a bond or other security.
21. Liability for Trade Secret Disclosure. Notwithstanding anything in this Agreement to contrary, the Receiving Party shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is confidentially: (i) disclosed to a federal, state, or local government official, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; or (ii) disclosed in a court filing under seal.
22. **Protecting Personally Identifiable Information (PII); Security; Breach of Security**
23. Restrictions on Use of PII. Any and all personally identifying information about any individual customer, shareholder, employee (including former employees), contractor, or family member of an employee of any Purchaser Affiliate, including without limitation an individual’s name, Social Security number, employee number, tax identification number, financial account information, birth date, physical address, email address, user name, password, IP address, telephone number, health plan information, or medical information (collectively, “***PII***”) disclosed by Purchaser to Supplier or with which Supplier otherwise comes in contact while providing the Work will be deemed Confidential Information, regardless of whether it is labeled or designated as such. Supplier shall not: (i) use PII for any purpose other than as reasonably necessary to fulfill the terms of this Agreement; or (ii) make PII available to any employees, agents, Subcontractors, or other representatives of Supplier except those with a need to know. If Purchaser objects to a specific Subcontractor having access to any PII, Purchaser may terminate this Agreement upon written notice to Supplier for convenience at no cost to Purchaser.
24. Security. Supplier shall implement appropriate measures to ensure the security and confidentiality of all PII in its and its Subcontractors’ possession, including protecting against any threats or hazards to the security or integrity of the PII that Supplier should reasonably be able to anticipate and against unauthorized access to or use of the PII.
25. Breach of Security. Notwithstanding any other provisions hereof, Supplier shall notify Purchaser (including, as set forth in subsection 33(o) *Notices*, Purchaser’s Director of Information Technology Risk Management) by phone and email within one (1) business day of any unauthorized access to, acquisition of, or disclosure of, PII or any individuals’ information which was held in the custody or control of Supplier or its Subcontractors of any tier, agents or other representatives, or a reasonable belief by either Supplier or its Subcontractor of any tier, agent or representative that such unauthorized access, acquisition or disclosure has occurred or within 48 hours after Supplier becomes aware that Supplier or a Subcontractor has experienced a security incident affecting Purchaser or Purchaser’s other Protected Assets (each a “***Breach of Security***”). Such notice shall include the following, to the extent the information is then available: (i) date and time that Supplier discovered the Breach of Security and the date and time when the breach actually occurred, if discoverable; (ii) a detailed description of the Breach of Security; (iii) a list of the systems and data at risk, including a list of affected individuals; and (iv) a description of actions taken after the Breach of Security was discovered. Supplier’s notice shall also provide Purchaser with the name and contact information for any personnel who shall serve as Purchaser’s primary security contact and shall be available to assist Purchaser with security incident management, response and recovery associated with the security incident. Immediately following Supplier’s notification to Purchaser of a Breach of Security, the parties shall coordinate with each other to investigate such Breach of Security and Supplier agrees to coordinate with Purchaser in Supplier’s handling of the matter, including (y) assisting with the investigation and (z) making available all relevant records and other materials required to comply with applicable law, regulation, industry standard or otherwise reasonably required by Purchaser. Supplier shall provide to Purchaser weekly reports and updates describing the investigation into the Breach of Security, all corrective or remedial actions taken or to be taken by Supplier (and any applicable Subcontractor) and shall promptly provide any further information that Purchaser may request in connection with Breach of Security. Supplier shall use best efforts to immediately remedy any Breach of Security and prevent any further or recurrent Breach of Security at Supplier’s expense in accordance with applicable privacy laws, regulations and standards. Supplier shall reimburse Purchaser for actual reasonable costs incurred by Purchaser in responding to, and mitigating damages caused by, any Breach of Security, including all costs of notice and/or remediation pursuant to this paragraph. Supplier shall fully cooperate at its own expense with Purchaser in any litigation or other formal action deemed reasonably necessary by Purchaser to protect its rights relating to the use, disclosure, protection and maintenance of its Confidential Information, PII and data.
26. Additional Requirements for Regulated PII.
    1. To the extent that Supplier or its Subcontractors have in their possession any PII for which the use, storage, protection, transfer, or disclosure is subject to state or federal laws or regulations (“***Regulated PII***”), Supplier shall implement a comprehensive written information security program containing organizational, administrative, physical and technical security measures that satisfies all relevant state and federal laws and regulations, including but not limited to the Massachusetts data security regulations contained in 201 CMR 17.00 (or its successor code sections) and, in the case of credit card data, the Payment Card Industry Data Security Standards (“***PCI DSS***”), as set forth in subsection (e) *Payment Card Industry Data Security Standards* below. To the extent that Supplier or its Subcontractors have Regulated PII in their possession, then upon Purchaser’s request, Supplier shall allow Purchaser to review its comprehensive written information security program as well as any audit reports, summaries of test results, or other documents related to security measures taken by Supplier or Subcontractor(s), and, as deemed necessary by Purchaser, inspect the implementation of associated administrative, physical and technical security measures, as the case may be, to assess whether its written information security program complies with information security requirements set forth by Purchaser as well as 201 CMR 17.00 (or its successor code sections) and other similar regulations. Such inspections will not include (A) access by Purchaser to confidential information of Supplier’s other customers or (B) direct access to any Supplier systems. In any circumstance where Supplier intends to change or modify Supplier’s written information security program or underlying security measures after inspection or approval of the same by Purchaser, Supplier (X) will not make any change or modification that decreases the overall security of such program or measures, and (Y) Supplier will provide Purchaser with advance written notice of such changes or modifications.
    2. Purchaser may, in its sole discretion, take any and all actions necessary or reasonable to respond to a Breach of Security involving Regulated PII (“***Breach of Regulated PII***”), including but not limited to conducting an investigation into the cause of the Breach of Regulated PII and notifying affected persons or government agencies accordingly. Supplier shall provide Purchaser with all information reasonably necessary to (i) aid Purchaser’s compliance with all federal and state data breach notification laws and any other laws or regulations that may be applicable to a Breach of Regulated PII; and (ii) facilitate Purchaser’s determination of whether the breach was effectively mitigated. Supplier shall bear all costs and expenses incurred by Purchaser related to the Breach of Regulated PII and compliance with law. Alternatively, Purchaser may require that Supplier take action to remedy the Breach of Regulated PII at Supplier’s expense. This may include, for example, sending notice to all individuals affected by the Breach of Regulated PII, even if some individuals’ records are not Regulated PII.
27. Payment Card Industry Data Security Standards. Supplier acknowledges and agrees that it and its Subcontractors are responsible for the security of Purchaser’s, Purchaser’s employees’, and Purchaser’s customers’ cardholder data that Supplier or its Subcontractors have in their control or possession. Supplier acknowledges that, to the extent that Supplier or its Subcontractors have such cardholder data in their control or possession, it and its Subcontractors will comply with the provisions of the most recent version of the PCI DSS.
28. Injunctive Relief. Supplier acknowledges that any breach of Supplier’s obligations set forth in this Section 23 may cause Purchaser substantial irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such a breach or threatened breach, Purchaser is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which Purchaser may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other available remedies at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.
29. **Taxes**
30. General. All taxes, including but not limited to, property, license, privilege, excise, gross receipts, value added, sales and use, or other similar taxes that may be imposed on this transaction or on any Work provided by Supplier will be paid by Supplier and will be deemed included in the compensation and identified as a line item on Supplier’s invoice unless otherwise specified on a Purchase Order.
31. Late Payment. Purchaser shall not be responsible for interest, penalties, or fines incurred by Supplier or any Subcontractor for late payment of applicable taxes.
32. [RESERVED]
33. Avoidance Reduction. Supplier shall be responsible for following any procedures identified by Purchaser to avoid or reduce the payment of sales taxes. In addition, the Parties agree to cooperate and consider such arrangements as are reasonably necessary to lawfully reduce the level of taxes payable by Supplier or Purchaser. Upon request of Purchaser, Supplier shall provide documentation of sales, value added, and use taxes allocated to any Work provided to Purchaser under this transaction.

(e)-(f) [RESERVED]

1. **[RESERVED]**
2. **Assignment**
3. Supplier. Unless Purchaser grants prior written consent, Supplier shall not assign any rights or delegate any duties or obligations pursuant to this Agreement or transfer or otherwise dispose of this Agreement or any part of it or its rights, title, and interest in it, nor assign any monies due or to become due under it. Any assignment or delegation made without the express written approval of Purchaser will be without effect. Any assignment of this Agreement consented to by Purchaser will not relieve Supplier of its responsibility for the due and full performance of it. Supplier will be liable to Purchaser for all acts and omissions of its assignees or other transferees.
4. Purchaser. This Agreement, and any portion of it, will at all times be assignable by Purchaser.
5. **Passage of Title and Risk of Loss**
6. Title. Except as otherwise set forth in a Purchase Order, title to Materials and Equipment furnished by Purchaser will remain with Purchaser, unless otherwise stated in this Agreement. Title to Materials and Equipment furnished by Supplier will pass to Purchaser upon Acceptance.
7. Risk of Loss. Prior to Acceptance, Supplier is responsible for, and shall bear any and all risk of loss, destruction or damage to any Materials and Equipment being installed or repaired, and to any and all property arising from provision of the Work (whether or not that property is owned by either Party or their Subcontractors or suppliers).

(c)-(e) [RESERVED]

1. **Safety**

(a)-(c) [RESERVED

1. Infectious Diseases. Supplier shall meet all federal, state, and Purchaser-specific guidelines to provide the necessary precautions to help mitigate the spread of infectious diseases, including but not limited to viruses (*e.g.*, COVID-19) or bloodborne pathogens. Supplier shall ensure all Supplier Personnel are properly trained on infectious disease prevention and mitigation procedures, including but not limited to social distancing, proper hygiene, face coverings, and reporting requirements. Unless prohibited by applicable law, Supplier shall notify Purchaser immediately upon learning that any Supplier Personnel have tested positive for an infectious disease or are suspected of exposing other persons to an infectious disease while working on Purchaser’s Work site.
2. **Materials, Tools, Equipment and Facilities**

Supplier shall supply all materials, tools, equipment, and facilities necessary for the proper provision of the Work. If Purchaser permits Supplier to use any of Purchaser’s materials, equipment, tools, or facilities or if Purchaser provides transportation, labor, electric power, or other utility service or other assistance in connection with the provision of the Work, such use or furnishings, unless expressly provided otherwise, will be gratuitous and Supplier waives, releases, and renounces all related claims, damages, or losses (and shall cause its Subcontractors to do the same), whether for personal injury, occupational sickness, disease, death, physical damage, or loss of use, and whether based on negligence, strict liability, or other fault of Purchaser. Supplier shall store its tools and materials at locations permitted by Purchaser, but Purchaser will not assume any liability or responsibility for loss or damage to Supplier’s tools and materials.

1. **[RESERVED]**
2. **Background Investigations and Access**
3. Background Investigations.
   1. Protected Assets Defined. Purchaser and/or Purchaser’s Affiliates own, control, and/or have the lawful right to use property, project sites or facilities, systems, Computer Equipment, Software, Data, PII, and/or networks (“***Protected Assets***”) for which Supplier may require regular, unescorted, and/or unsupervised access to perform Services or Work under a specific SOW. If Purchaser Affiliates restrict access rights to any of the Protected Assets for any reason, Purchaser will grant such access rights to Protected Assets only to persons who successfully pass a background investigation and satisfy any other qualifications necessary for performance of the Work, if any.
   2. Background Investigation Requirements. Purchaser may require Supplier and any Subcontractor personnel (each a “***Candidate***”) to undergo a background investigation prior to Purchaser granting such Candidate(s) regular and/or unescorted or unsupervised access to any Protected Assets. When background investigations are required, Supplier will coordinate with Purchaser’s designated background investigation vendor to perform the background investigation, in accordance with Purchaser’s security policies and established adjudication guidelines. The costs of any such background investigation shall be borne by Purchaser. Notwithstanding the foregoing, Supplier understands, agrees and acknowledges that **Purchaser may self-perform, at its cost, all background investigations for Candidates requiring access to Protected Assets which Purchaser, in its sole discretion, deem to be critical network and associated systems**. **Any Candidates who do not successfully complete the requirements of, or otherwise refuse to undergo, a background investigation pursuant to this provision will not be permitted access to Protected Assets. Supplier shall be responsible for providing suitable replacements.**
      1. Investigations by Purchaser. If Purchaser elects to perform the background investigation, Supplier agrees to provide the necessary information about each applicable Candidate, including, but not limited to, the respective Candidate’s PII (“***Candidate Data***”). In such event, Purchaser shall protect Candidate Data from disclosure with at least the same level of protection Purchaser uses for its own PII. Any Candidate for which Purchaser is unable to obtain necessary Candidate Data will not be permitted access to Protected Assets.
      2. Export Control Requirements. Supplier further understands and acknowledges that any Candidate born outside the United States or holding citizenship in a country other than the United States must also successfully pass Purchaser’s export control process before receiving access to Protected Assets.

(b)-(d) [RESERVED]

1. Location of Data. Unless otherwise expressly agreed upon in writing, Supplier shall not (i) host any of Purchaser’s data in any facility or on data servers owned and/or controlled by anyone other than Supplier or (ii) store or transfer any of Purchaser’s data outside of the United States. For purposes of this subsection (e), “***control***” means to have the ability and responsibility to secure and operate that server.
2. **[RESERVED]**
3. **Miscellaneous**
4. Governing Law; Jurisdiction.
   1. Governing Law. The Parties intend that this Agreement be governed by the laws of the state identified as providing governing law in a Purchase Order subject to these Terms and Conditions (the “***State***”) without giving effect to the State’s choice of laws principles; however, if no state is so identified, the “***State***” shall be the Commonwealth of Virginia.
   2. Jurisdiction and Venue. The Parties agree that any litigation of or concerning this Agreement shall be adjudicated in the federal or state courts located in Richmond, Virginia and submit to their exclusive jurisdiction. Each Party hereto irrevocably waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such proceeding brought in such courts, including that either is an inconvenient forum.
   3. Waiver of Jury Trial. The Parties waive their rights to trial by jury.
5. Non-Waiver of Rights; Remedies Cumulative. The failure of either Party to demand strict performance of the terms of or to exercise any right conferred by this Agreement is not intended by the Parties to be construed as a waiver or relinquishment of its right to assert or rely upon any term or right in the future, or as a consent to any continuing or subsequent failure or breach. All remedies set forth in this Agreement are distinct, separate and cumulative, and are in addition to and not in lieu of any other rights and remedies given elsewhere in this Agreement or available at law or in equity.
6. Severability. If any provision or any part or portion of any provision of this Agreement becomes or is declared to be unlawful, invalid, void, or otherwise unenforceable, the rights and obligations of the Parties will be reduced only as much as is required to remove the unenforceability. The balance of this Agreement will remain in effect.
7. Survival. Neither provision nor Acceptance of any Work, nor any termination, expiration, or cancellation of this Agreement, will be deemed to relieve either Party of any obligations under it that by their nature survive termination, including but not limited to all warranties, guarantees, promises of indemnity, limitations of liability, and confidentiality obligations.
8. Headings and Terminology. Section and subsection headings are inserted for convenience and are not intended to have any effect on the interpretation or construction of this Agreement. The verb used to introduce a statement of fact in this Agreement shall not affect the remedies available for inaccuracy of that statement of fact.
9. Publicity. Without the prior written consent of Purchaser, Supplier shall make no public announcement or release any information concerning Purchaser, the Work, this Agreement or Supplier’s business relationship with Purchaser, to any member of the public, the press, any business entity or any governmental authority (except as required by applicable laws, rules, regulations, or ordinances). Without limiting the generality of the foregoing, Supplier acknowledges and agrees that Purchaser shall have the right to control media access to Purchaser’s Premises and any responses to media inquiries regarding Purchaser or any emergency or other incident at Purchaser’s Premises, including without limitation, incidents involving personal injury, property damage or operational events.
10. Independent Contractor. Supplier’s relationship to Purchaser is that of an independent contractor, and neither Supplier nor any of its Subcontractors, nor any employees of Supplier or its Subcontractors are employees of Purchaser. Supplier assumes sole and complete responsibility for the employment, compensation, control, and conduct of its employees. Supplier specifically acknowledges that it is an independent contractor, not entitled to Worker’s Compensation benefits from any Purchaser Affiliate and is obligated to pay federal and state income taxes on any money earned pursuant to the relationship created by this Agreement. This Agreement is not intended to create an agency relationship, partnership, or joint venture between the Parties.
11. Non-Exclusive. This Agreement is not intended to prevent Purchaser from providing for itself or obtaining from any third party, at any time during or after the term of this Agreement: (i) materials, equipment, or services in any way analogous, similar, or comparable to the Work provided hereunder; or (ii) any other materials, equipment, or services related to the Work. In no event will this Agreement be construed as a requirements contract or requiring any minimum volume of purchases or spending by Purchaser.
12. **[**RESERVED**]**
13. **[**RESERVED**]**
14. Successors and Assigns. This Agreement will be binding on the Parties and their directors, officers, agents, successors, and permitted assigns.
15. Cooperation with Others. Purchaser reserves the right to require Supplier to schedule the order of performance of its obligations under this Agreement in such a manner as will minimize interference with performance by other parties at the job site.
16. Opt Out of Convention. The terms of the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.
17. Integration, Entirety, and Amendment. This Agreement, together with all attachments and incorporated references, is the entire agreement between the Parties with respect to the Work and supersedes any prior or contemporaneous agreement or understanding between the Parties regarding its subject matter. The Parties will not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth or provided for in this Agreement. No prior course of dealing, usage of trade, or course of performance is intended by either Party to be used to supplement or explain any term, condition, or instruction used in this Agreement or to effect any amendment to it. No revision or amendment to this Agreement will be effective unless it is signed by the Parties.
18. Notices. Notices to the Parties concerning this Agreement will be effective only if they are in writing and delivered personally, by fax, email, certified mail, or by overnight courier. All notices hereunder shall be sent to the person and at the mailing address, email address or fax number designated in a Purchase Order, provided, however, that in the event of a Breach of Security as set forth in Section 23 *Protecting Personally Identifiable Information*, copies of all notices shall also be sent to Purchaser’s Director of Information Technology Risk Management. Either Party may change the person to receive notice or the applicable contact information by providing notice to the other. Properly delivered notices will be deemed to have been received (i) in the case of fax or email, upon electronic confirmation of receipt and (ii) in the case of certified mail or overnight courier, on the second business day after being sent.

**Appendix  
 Insurance Requirements**

Supplier shall obtain and/or maintain insurance policies in compliance with Section 16 *Insurance* of the Terms and Conditions with the coverages and limits set forth below.

**IMPORTANT NOTE:** There is no separate limit requirement for excess or Umbrella Liability insurance. Supplier may satisfy the limits and coverages below, at Supplier’s option, through primary insurance or a combination of lower limit primary underlying insurance together with a separate excess or Umbrella Liability policy.

1. **Worker’s Compensation** insurance in the state or states where the Work is to be performed (or any associated Materials and Equipment created) or in any other state where the employee performing the Work (or creating, assembling, delivering, or otherwise working on any associated Materials and Equipment) is normally employed.
2. **Employer’s Liability** insurance with a total limit of at least **two million dollars ($2,000,000) per accident for bodily injury by accident** and **two million dollars ($2,000,000) per employee for bodily injury by disease and two million dollars ($2,000,000) per policy limit for bodily injury by disease**.
3. **Commercial General Liability** (“***CGL***”) insurance with a total limit of at least **two million dollars ($2,000,000) per occurrence and in the aggregate** (occurrence form policy) for bodily injury, property damage and personal injury. CGL insurance required by this Agreement shall include, but not be limited to, specific coverage for contractual liability encompassing Section 15 *Indemnity* of this Agreement; premises/operations liability; and products/completed operations liability. In addition, CGL insurance required by this Agreement shall contain no exclusions for explosion, collapse or underground hazards. Supplier shall maintain the completed operations liability insurance for at least three (3) years following completion of the Work.
4. **Automobile Liability** insurance covering bodily injury and property damage with a total limit of at least **two million dollars ($2,000,000) per accident**, which will cover liability arising out of any auto (including owned, hired and non-owned autos).
5. *If applicable to the Work*, **Professional Liability** **/** **Errors & Omissions** (“***Professional Liability Insurance***”) insurance with a limit of liability of not less than **two million dollars ($2,000,000) per claim and in the aggregate**.
6. *If Supplier will have access to Confidential Information of Purchaser or Purchaser Affiliates in connection with performance of the Work*, **Information and Network Security / Cyber Liability** (“***Cyber Liability***”) insurance with a limit of liability of not less than **five million dollars ($5,000,000) per claim and in the aggregate**, covering Supplier, its employees, Subcontractors, and assigns for claims and demands resulting from negligent or wrongful acts of Supplier or Supplier Personnel in the performance of or failure to perform any Work or support for Work, including but not limited to claims, demands, or other payments Purchaser may become legally or contractually obligated to pay for (a) infringement of intellectual property (except patent infringement), (b) failures in electronic and non-electronic security, (c) breach of confidentiality, including but not limited to breach of personal information, or (d) invasion of or breach of privacy. Supplier shall maintain such Cyber Liability insurance for at least two (2) years following completion of the Work. Supplier may satisfy this requirement by including Cyber Liability coverage under its Professional Liability insurance (if applicable) provided such coverage meets the above requirements.
7. *If applicable to the Work*, **Pollution Liability** insurance with limits not less than **five million dollars ($5,000,000)** **each occurrence** and **five million dollars ($5,000,000)** in annual aggregate, covering sudden/accidental and gradual pollution losses arising from the Work as detailed in subsections (a), (b), and (c) below.
   * 1. For pollution arising during the performance of the Work and after completion of the Work, coverage shall apply to the discharge, dispersal, release, or escape of dust, smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials, or other irritants, contaminants, or pollutants into or upon land, the atmosphere, or any watercourse or body of water, which result in any bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death; and/or property damage, including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed (any such incident referred to herein as a “***Pollution Incident***”). Coverage shall apply to the cost of defending any claims arising from a Pollution Incident including costs, charges, and expenses incurred in the investigation, adjustment, or defense of such claims.
     2. *If applicable to the Work*, coverage shall apply to pollution liability arising out of the use of vehicles to transport pollutants or contaminants; such coverage to be included in the pollution liability policy or by endorsing the Commercial Auto Liability policy with the Pollution Liability – Broadened Coverage For Covered Autos – Business Auto, Motor Carrier And Truckers Coverage Form (form CA 99 48) or a similar form; and where required by law, the Commercial Auto Liability policy shall include the MCS-90 endorsement.
     3. *If applicable to the Work,* coverage shall apply to pollution liability arising out of owned and non-owned disposal sites.
8. *If applicable to the Work*, **Aircraft Liability** insurance covering all owned and non-owned unmanned aircraft systems (“***UAS***”) or unmanned aerial vehicles (“***UAV***”) used in the performance of the Work, subject to a combined single limit of liability of not less than **three million dollars ($3,000,000) per claim**.

**Appendix  
 Sample Subcontractor Addendum**

This Subcontractor Addendum (“***Addendum***”) is made by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“***Subcontractor***”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“***Supplier***”) and is attached to and incorporated by reference into the contract between Subcontractor and Supplier dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ pursuant to which Subcontractor fulfills certain obligations of Supplier to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or its affiliate (“***Purchaser***”) as set forth in contract between Supplier and Purchaser (the “***Master Agreement***”). Subcontractor, Supplier, and Purchaser may be collectively referred to as the “***Parties***” and singularly as a “***Party***.”

Subcontractor acknowledges that the Master Agreement requires that all subcontractor contracts contain the following provisions. Supplier and Subcontractor agree that the terms of this Subcontractor Addendum shall be made a part of the agreement between Supplier and Subcontractor for services (the “***Subcontract***”), and in the event of any conflict between the terms of the Subcontract and the terms set forth below in this Addendum, this Addendum shall control.

1. **Warranties**
2. Title. Subcontractor represents and warrants to Purchaser that it owns all right, title, and interest in and to the goods, products, materials, or equipment (“***Materials and Equipment***”), or if not the owner, Subcontractor has full authority to sell the Materials and Equipment to Purchaser. Subcontractor further represents and warrants to Purchaser that the Materials and Equipment are free from any and all security interests, claims, demands, liens, or other encumbrances, including, without limitation, those arising due to Subcontractor’s performance of the services specified in the Subcontract (“***Services***”) and/or those Materials and Equipment Subcontractor provides to Purchaser (collectively, the “***Work***”). If Materials and Equipment fail to conform to this warranty of title or are in any way encumbered, Subcontractor shall defend the title to the Materials and Equipment and shall, at Purchaser’s option and at no cost to Purchaser, promptly remove, or cause to be removed, any security interest, claim, demand, lien, or other encumbrance, or shall replace the Materials and Equipment with materials and equipment conforming to this warranty of title.
3. Personnel. Subcontractor represents and warrants that it shall employ, or obtain the services of, competent and qualified personnel to perform the Work. If requested by Purchaser, Subcontractor shall furnish Purchaser with evidence of the qualifications, education, and experience of its personnel. Purchaser may require Subcontractor to remove any of Subcontractor’s personnel from the Work if, in the sole judgment of Purchaser, such removal is in Purchaser’s best interest. Subcontractor shall remove any of Subcontractor’s personnel judged unsatisfactory by Purchaser and shall assign other qualified personnel at no cost to Purchaser. Subcontractor shall provide ninety (90) days’ advance notice of any intended change of key personnel, unless such change is due to death, illness, or termination of employment, in which case Subcontractor shall give as much notice as is reasonably practicable.
4. **Indemnity**
   * 1. To the extent allowed by law, Subcontractor agrees to indemnify, hold harmless and at Purchaser’s sole option, defend Purchaser, Purchaser’s Affiliates (defined below), and each of their respective directors, officers, employees, contractors, and agents (each an “***Indemnitee***”) from and against any and all claims, demands, costs, losses, liabilities, lawsuits, or other proceedings brought or threatened by any third party, including but not limited to an Indemnitee, Subcontractor, any of Subcontractor’s employees or agents, or any subcontractor of Subcontractor at any tier (including their respective employees or agents), arising out of, resulting from, caused by, or in connection with this Addendum (each, a “***Third Party Claim***”) or by Purchaser in relation or response to a Third Party Claim (each, a “***Related First Party Claim***”), and to pay all of each Indemnitee’s costs in connection with, arising from, or relating to any Third Party Claim or Related First Party Claim, including but not limited to, any judgment, amounts paid in settlement, fines, penalties, forfeitures, and expenses (including reasonable attorneys’ fees through final appeal), whether at law, in equity, or administrative in nature, for: (i) personal injury or death; (ii) property damage; (iii) violation of law, regulation, rule or ordinance (including but not limited to data privacy laws); (iv) any Breach of Regulated PII (defined in Section 6 below), regardless of whether an Indemnitee is required to take any action under any state or federal law; or (v) Subcontractor’s breach of this Addendum. Subcontractor will only be liable under subsections (i) and (ii) of the preceding sentence for Third Party Claims or Related First Party Claims to the extent arising from the negligence, gross negligence, or willful misconduct of Subcontractor or Subcontractor’s employees and/or agents. Subcontractor will not be liable under this Section 2 *Indemnity* for any personal injuries, deaths, or property damage to the extent that they are caused by an Indemnitee’s negligence, gross negligence, or willful misconduct.
     2. Affiliate Defined. “***Affiliate***” means any parent or subsidiary of a Party, any company that has an ultimate parent company in common with a Party, any person or entity that holds, directly or indirectly, an ownership interest of more than 50% of a Party, any person or entity that controls or directs the management of a Party, any entity in which a Party holds, directly or indirectly, an ownership interest of more than 50%, or any entity with respect to which a Party controls or directs the management.
5. **Waiver of Liens** 
   * 1. Waiver. To the extent Subcontractor receives payment for Work performed, Subcontractor waives, and shall require each supplier to waive, any and all liens and claims, and the right to file and enforce or otherwise assert any liens and claims, against Purchaser or Purchaser’s property or facilities relating to any Work. Subcontractor shall include and shall require each supplier to include this lien waiver provision in all agreements with suppliers.

(b)-(d) [RESERVED]

1. **Intellectual Property Indemnity**

In addition to and not in lieu of the remedies provided to Purchaser in Section 2 *Indemnity* of this Addendum, Subcontractor agrees to indemnify, hold harmless and, at Purchaser’s sole option, defend each Indemnitee from and against any and all third party claims based in whole or in part on an allegation that all or any portion of the Work, or use thereof for its intended purpose, constitutes an infringement of any third party claim of patent, copyright, trademark, or a misappropriation of a trade secret (each an “***Infringement Claim***”), and pay all of each Indemnitee’s costs in connection with, arising from, or relating to any such Infringement Claim, including but not limited to any judgment, amounts paid in settlement, fines, penalties, forfeitures, and expenses (including reasonable attorneys’ fees through final appeal), whether at law, in equity, or administrative in nature. In addition, at Purchaser’s option and at no cost to Purchaser, Subcontractor shall (a) procure for Purchaser the right to continue using the Work, or applicable portion thereof, (b) replace all that infringes with substantially equivalent noninfringing replacements, (c) modify same to be noninfringing, or (d) pro-rate and refund such compensation as is attributable to the applicable Work.

1. **Confidential Information**
2. Confidential Information Defined. For purposes of this Addendum, the term “***Confidential Information***” means each Party’s proprietary and confidential information in any medium including, without limitation: (i) any trade secret, know-how, invention, software program, application, documentation, schematic, procedure, contract, information, knowledge, data, process, technique, design, drawing, program, formula, test data, work in progress, engineering, manufacturing, marketing, financial, sales, supplier, customer, employee, investor, or business information, whether in oral, written, graphic, or electronic form; (ii) any document, diagram, photograph, drawing, computer program, or other communication that is either conspicuously marked “confidential” or the like or is known or reasonably should have been known by the other Party to be confidential, or is of a proprietary nature, and is learned or disclosed in the course of discussions, studies, or other work undertaken between the Parties; (iii) Critical Energy Infrastructure Information as set forth in 18 CFR § 388.113 (as it may be amended from time to time), and (iv) any memoranda, notes, correspondence, facsimile transmissions, e-mail messages, recordings, and all other materials that contain, summarize, or describe any portion of that which is mentioned in items (i), (ii), or (iii) above. For purposes of this Addendum, the Party disclosing Confidential Information is referred to as the “***Disclosing Party***” and the Party receiving information from the Disclosing Party, whether directly (as in Subcontractor’s receipt of Confidential Information from Purchaser) or indirectly (as in a Subcontractor’s receipt of Confidential Information of Purchaser from Supplier) is referred to as the “***Receiving Party***.”
3. Non-protected Information. Confidential Information does not include anything that: (i) at the time it is disclosed to the Receiving Party, the information is already in the Receiving Party’s possession or available to it or its employees from any other source having no obligation to the Disclosing Party; (ii) is or becomes available to the public without breach of this Addendum by the Receiving Party, its consultants, or agents or any of their respective employees; or (iii) is at any time obtained by the Receiving Party from any person or entity having no obligation to or relationship with the Disclosing Party; or (iv) is developed independently by the Receiving Party without use of or reference to the Disclosing Party’s Confidential Information.
4. Limited Use. The Parties acknowledge that access to each other’s Confidential Information is only for purposes of performing their respective obligations under this Addendum (“***Authorized Use***”) and that they shall maintain the Confidential Information in the strictest confidence. Subcontractor shall not, without first obtaining the express prior written permission of Supplier or Purchaser, as applicable, which consent may be withheld in Supplier’s or Purchaser’s (as applicable) absolute and sole discretion: (i) directly or indirectly use Supplier’s or Purchaser’s Confidential Information in its business; (ii) manufacture and/or sell any product that is based in whole or in part on Supplier’s or Purchaser’s Confidential Information; (iii) copy or modify Supplier’s or Purchaser’s Confidential Information, or any copy or portion of it; or (iv) disclose Supplier’s or Purchaser’s Confidential Information to any third party or any employee of Purchaser and its Affiliates who is identified to Subcontractor by Purchaser, except as permitted by this Addendum. Subcontractor shall limit its disclosure of Supplier’s and Purchaser’s Confidential Information to Subcontractor employees who have a legitimate need to receive the Confidential Information in order to accomplish the Authorized Use and who have executed an agreement to be bound by the terms of this Section 5 *Confidential Information*. Supplier and Purchaser may disclose Supplier’s Confidential Information to (i) third party contractors and service providers in connection with Purchaser’s use and receipt of the Work (provided that they are subject to contractual obligations to keep such Supplier Confidential Information confidential) and (ii) Supplier’s and Purchaser’s Affiliates. Without limiting the foregoing, in performing the obligations described in this Section 5 *Confidential Information*, the Receiving Party shall conduct itself, and shall cause its employees to conduct themselves, in accordance with the highest standards established by law with respect to the duties of a person in a position of trust with regard to the obligations described in this Section 5 *Confidential Information*. Under no circumstances will Subcontractor serve as a “conduit for the exchange of market information” (*see* 18 C.F.R. 358.6) between employees of Purchaser and its Affiliates in any manner that would violate the law or codes of conduct applying to Purchaser and its Affiliates.
5. Proprietary Protection. The Disclosing Party will have sole and exclusive ownership of all right, title, and interest in and to its Confidential Information, including without limitation ownership of all copyrights and trade secrets pertaining to that Confidential Information, subject only to the rights and privileges expressly granted by the Disclosing Party to the Receiving Party.
6. Consultants. Prior to disclosing Supplier’s or Purchaser’s Confidential Information to a consultant, or agent, Subcontractor shall first obtain a written agreement from that consultant, or agent to be bound by the terms of this Section 5 *Confidential Information*.
7. Return of Confidential Information. Upon termination of this Addendum or at any time at the request of the Disclosing Party, the Receiving Party shall: (i) deliver promptly to the Disclosing Party all of the Disclosing Party’s Confidential Information in the Receiving Party’s possession or under its control that is in tangible form; and (ii) permanently destroy (including deletion of permanent and temporary files, if any, stored on computers or other electronic devices) all of the Disclosing Party’s Confidential Information in its possession that is in electronic or other intangible form. If requested by the Disclosing Party, the Receiving Party shall deliver a certificate certifying that it has satisfied the requirements of this Section 5 *Confidential Information*. Notwithstanding the foregoing, to the extent it would be unreasonably costly or cumbersome, the Receiving Party shall not be required to delete intangible copies of Confidential Information that have been made as part of the Receiving Party’s routine systems back-up procedures.
8. Security. The Receiving Party shall safeguard and maintain the confidentiality of any Confidential Information disclosed to it by the Disclosing Party in at least the same manner in which it protects its own confidential and proprietary information of like kind and sensitivity, but in no event with less than reasonable care. Unless otherwise expressly agreed upon in writing, the Disclosing Party’s Confidential Information shall not be hosted in any facility or on data servers owned and controlled by anyone other than the Receiving Party. The Receiving Party shall assume full responsibility for breaches of this Addendum by any of its employees, consultants, or agents or any of their respective employees. In the event of a breach, suspected breach or unauthorized release of the Disclosing Party’s Confidential Information, the Receiving Party shall provide immediate notice to the Disclosing Party, and, in the case of a breach of PII (defined in Section 6 below), such notice shall also comply with Section 6 *Protecting Personally Identifiable Information*. Such notice shall include sufficient detail regarding the incident or suspected incident to the reasonable satisfaction of the Disclosing Party. Upon the Disclosing Party’s request at any time, the Receiving Party shall provide a list, including contact information, of individuals and entities to whom or which the Receiving Party has granted access to the Disclosing Party’s Confidential Information.
9. Court-Ordered Disclosure. Notwithstanding the above restrictions, the Receiving Party may disclose the Disclosing Party’s Confidential Information if that disclosure is pursuant to a valid order of a court or authorized agency of government, but the Receiving Party shall, to the extent permitted by law, give the Disclosing Party ten (10) days’ prior notice so that the Disclosing Party may seek a protective order, if appropriate. If the Disclosing Party seeks a protective order, the Receiving Party shall cooperate, at the Disclosing Party’s expense, in seeking the protective order.
10. [RESERVED]
11. Injunctive Relief. The Parties hereby acknowledge that a Receiving Party’s breach of the provisions of this Section 5 *Confidential Information* will cause the irreparable damage to the Disclosing Party for which recovery of money damages would be an inadequate remedy. The non-breaching Party will, therefore, be entitled to obtain timely injunctive relief to protect its rights under this Section 5 *Confidential Information* in addition to any other remedies available to it at law or pursuant to this Addendum without the need to post a bond or other security.
12. Liability for Trade Secret Disclosure. Notwithstanding anything in this Agreement to contrary, the Receiving Party shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is confidentially: (i) disclosed to a federal, state, or local government official, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; or (ii) disclosed in a court filing under seal.
13. **Protecting Personally Identifiable Information**
14. Restrictions on Use of PII. Any and all personally identifying information about any individual customer, shareholder, employee (including former employees), contractor, or family member of an employee of Purchaser or any Affiliate of Purchaser, including without limitation an individual’s name, Social Security number, employee number, tax identification number, financial account information, birth date, physical address, email address, user name, password, IP address, telephone number, health plan information, or medical information (collectively, “***PII***”) disclosed by Purchaser to Subcontractor or with which Subcontractor otherwise comes in contact while providing the Work will be deemed Confidential Information, regardless of whether it is labeled or designated as such. Subcontractor shall not: (i) use PII for any purpose other than as reasonably necessary to fulfill the terms of this Addendum; or (ii) make PII available to any employees, agents, suppliers, or other representatives of Subcontractor except those with a need to know.
15. Security. Subcontractor shall implement appropriate measures to ensure the security and confidentiality of all PII in its and its suppliers’ possession, including protecting against any threats or hazards to the security or integrity of the PII that Subcontractor should reasonably be able to anticipate and against unauthorized access to or use of the PII. The measures implemented by Subcontractor pursuant to this paragraph shall be no less rigorous than the latest published version of ISO/IEC 27001 – Information Security Management Systems–Requirements, and ISO/IEC 27002 – Code of Practice for International Security Management. Subcontractor agrees to disclose to Supplier known security vulnerabilities in hardware, software and services provided under this Addendum in a timely manner. Subcontractor agrees to provide a method to verify the integrity and authenticity of all software and patches provided by Subcontractor.
16. Breach of Security. Notwithstanding any other provisions hereof, Subcontractor shall notify Purchaser by phone and email at the address below (copying Purchaser’s Director of Information Technology Risk Management) within one (1) business day of any unauthorized access to, acquisition of, or disclosure of, PII or any individuals’ information which was held in the custody or control of Subcontractor or its suppliers of any tier, agents or other representatives, or a reasonable belief by either Subcontractor or its suppliers of any tier, agent or representative that such unauthorized access, acquisition or disclosure has occurred or within 48 hours after Subcontractor becomes aware that Subcontractor has experienced a security incident affecting Purchaser (each a “***Breach of Security***”). Such notice shall include the following: (i) date and time that the Subcontractor discovered the Breach of Security and the date and time when the breach actually occurred, if discoverable; (ii) a detailed description of the Breach of Security; (iii) a list of the systems and data at risk, including a list of affected individuals; and (iv) a description of actions taken after the Breach of Security was discovered. Subcontractor’s notice shall also provide Purchaser with the name and contact information for any personnel who shall serve as Purchaser’s primary security contact and shall be available to assist Purchaser with security incident management, response and recovery associated with the security incident. Immediately following Subcontractor’s notification to Purchaser of a Breach of Security, the parties shall coordinate with each other to investigate such Breach of Security and Subcontractor agrees to coordinate with Purchaser in Subcontractor’s handling of the matter, including (y) assisting with the investigation and (z) making available all relevant records and other materials required to comply with applicable law, regulation, industry standard or otherwise reasonably required by Purchaser. Subcontractor shall provide to Purchaser weekly reports and updates describing the investigation into the Breach of Security, all corrective or remedial actions taken or to be taken by the Subcontractor (and any applicable supplier) and shall promptly provide any further information that Purchaser may request in connection with Breach of Security. Subcontractor shall use best efforts to immediately remedy any Breach of Security and prevent any further or recurrent Breach of Security at Subcontractor’s expense in accordance with applicable privacy laws, regulations and standards. Subcontractor shall reimburse Purchaser for actual reasonable costs incurred by Purchaser in responding to, and mitigating damages caused by, any Breach of Security, including all costs of notice and/or remediation pursuant to this paragraph. Subcontractor shall fully cooperate at its own expense with Purchaser in any litigation or other formal action deemed reasonably necessary by Purchaser to protect its rights relating to the use, disclosure, protection and maintenance of its Confidential Information, PII and data.

[Purchaser Name]

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone: (xxx) xxx-xxxx

Email: \_\_\_\_\_\_\_\_\_\_\_@\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Additional Requirements for Regulated PII.
   1. To the extent that Subcontractor or its suppliers have PII for which the use, storage, protection, transfer, or disclosure is subject to state or federal laws or regulations (“***Regulated PII***”) in their possession, Subcontractor shall implement a comprehensive written information security program containing organizational, administrative, physical and technical security measures that satisfies all relevant state and federal laws and regulations, including but not limited to the Massachusetts data security regulations contained in 201 CMR 17.00 (or its successor code sections) and, in the case of credit card data, the Payment Card Industry Standards (“***PCI DSS***”), as set forth in subsection (e) *Payment Card Industry Data Security Standards* below. To the extent that Subcontractor or its suppliers have Regulated PII in their possession, then upon Purchaser’s request, Subcontractor shall allow Purchaser to review its comprehensive written information security program as well as any audit reports, summaries of test results, or other documents related to security measures taken by Subcontractor or supplier(s), and, as deemed necessary by Purchaser, inspect the implementation of associated administrative, physical and technical security measures, as the case may be, to assess whether its written information security program complies with information security requirements set forth by Purchaser as well as 201 CMR 17.00 (or its successor code sections) and other similar regulations. Such inspections will not include (i) access by Purchaser to confidential information of Subcontractor’s other customers or (ii) direct access to any Subcontractor systems. In any circumstance where Subcontractor intends to change or modify the Subcontractor’s written information security program or underlying security measures after inspection or approval of the same by Purchaser, Subcontractor (1) will not make any change or modification that decreases the overall security of such program or measures, and (2) Subcontractor will provide Purchaser with advance written notice of such changes or modifications.
   2. Purchaser may, in its sole discretion, take any and all actions necessary or reasonable to respond to a Breach of Security involving Regulated PII (“***Breach of*** ***Regulated PII***”), including but not limited to conducting an investigation into the cause of the Breach of Regulated PII and notifying affected persons or government agencies accordingly. Subcontractor shall provide Purchaser with all information reasonably necessary to (i) aid Purchaser’s compliance with all federal and state data breach notification laws and any other laws or regulations that may be applicable to a Breach of Regulated PII; and (ii) facilitate Purchaser’s determination of whether the breach was effectively mitigated. Subcontractor shall bear all costs and expenses incurred by Purchaser related to the Breach of Regulated PII and compliance with law. Alternatively, Purchaser may require that Subcontractor take action to remedy the Breach of Regulated PII at Subcontractor’s expense. This may include, for example, sending notice to all individuals affected by the Breach of Regulated PII, even if some individuals’ records are not Regulated PII.
2. Payment Card Industry Data Security Standards. Subcontractor acknowledges and agrees that it and its suppliers are responsible for the security of Purchaser’s, Purchaser’s employees’, and Purchaser’s customers’ cardholder data that Subcontractor or its suppliers have in their control or possession. Subcontractor acknowledges that, to the extent that Subcontractor or its suppliers have such cardholder data in their control or possession, it and its suppliers will comply with the provisions of the most recent version of the PCI DSS.
3. **Records, Auditing, and Data Security**
4. Records and Right to Audit. Subcontractor shall keep accurate and complete books of account, records, and other documents (including without limitation all information, materials, and data that may have bearing on or pertain to any matters, rights, duties, or obligations of Subcontractor covered by this Addendum, hereinafter, “***Records***”) related to the provision of the Work and maintain accounting procedures and practices sufficient to reflect its direct and indirect (to include any home office overhead) costs incurred in providing Work, and shall require all suppliers (including without limitation subcontractors, insurance carriers, and similar agents) to maintain such Records and be subject to an audit requirement no less restrictive than those contained in this Addendum. Purchaser and its representatives will have the right to inspect and audit those Records and interview Subcontractor Personnel (including suppliers’ personnel) at reasonable times upon reasonable notice.
5. [RESERVED]
6. **Location of Data**

Unless otherwise expressly agreed upon in writing, Subcontractor shall not (a) host any of Purchaser’s data in any facility or on data servers owned and/or controlled by anyone other than Supplier or (b) store or transfer any of Purchaser’s data outside of the United States.

1. **Compliance with Laws**
2. General. Subcontractor shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the provision of the Work.
3. Export.
   1. Compliance with Export Laws.
      1. Subcontractor shall comply with all U.S. laws and regulations, including, but not limited to, the U.S. Department of Energy regulations on “Assistance to Foreign Atomic Energy Activities,” as codified at 10 C.F.R. Part 810 (“***Part 810***”), the Export Administration Regulations, as codified at 15 C.F.R. Parts 730 to 774 (“***EAR***”), and any other applicable U.S. export control laws and regulations (“***U.S. Export Laws***”), that prohibit, without first securing a license or authorization from the U.S. Government, the export or re-export, including the release within the United States to individuals who are not (1) citizens of the United States, (2) a U. S. lawful permanent residents or (3) protected individuals under the Immigration and Naturalization Act (8 U.S.C 1324b(a)(3)) (each a “***Foreign National***”) (“***Deemed Exports***”), of certain restricted or controlled goods, technology, software, information or data including, but not limited to, information concerning the design, fabrication, construction, operation and maintenance of Purchaser’s nuclear reactors, related components and subsystems, and any other items subject to restriction pursuant to the U.S. export control laws and regulations (collectively, “***Restricted Commodities***”).
      2. Subcontractor shall obtain any export license, permit or government authorization from the applicable U.S. government agencies that may be required for the exports, re-exports and Deemed Exports of any Restricted Commodities, that may occur as a result of Subcontractor’s retransfer of Restricted Commodities to third parties or Subcontractor’s use of persons who are Foreign Nationals to provide the Work.
      3. In addition, upon Purchaser’s request, Supplier or Subcontractor shall provide Purchaser with verification of Subcontractor’s compliance with this paragraph consisting of: (1) copies of export licenses, permits, or authorizations granted by the applicable U.S. government agencies; (2) Subcontractor personnel citizenship verification information; (3) evidence of completed screening for denied parties, including screening against the Specially Designated Nationals List (“***SDN List***”), maintained by the U.S. Department of Treasury’s Office of Foreign Asset Control (“***OFAC***”), the Denied Persons, Entity and Unverified Lists maintained by the U.S. Department of Commerce’s Bureau of Industry and Security (“***BIS***”), Nonproliferation Sanctions List maintained by the U.S. Department of State, and any other lists incorporated into the Consolidated Screening List maintained by the U.S. Government at Export.gov (“***Denial Lists***”); and (4) any other relevant documentation that Purchaser might reasonably request. The obligations of Subcontractor under this paragraph shall survive any termination, expiration or discharge of any other contract obligations. Subcontractor represents and warrants that it is in compliance with, and shall not cause Purchaser to violate, any requirements and regulations related to the Denial Lists. In the event of any breach of the foregoing warranty, this Agreement shall be deemed void ab initio and Subcontractor shall refund Supplier any amounts paid hereunder and Supplier shall owe no further amounts to Subcontractor hereunder.
   2. Subcontractors Providing Labor to Purchaser’s Nuclear Facilities. Subcontractors providing workers to Purchaser’s nuclear power reactor facilities either directly or via any Subcontractor, where such workers are granted unescorted access to Purchaser’s nuclear power reactor facilities, are required to identify any workers who are Foreign Nationals and for each such worker:
      1. Provide a copy of that individual’s resume (or equivalent description of experience), copies of passport and visas and provide additional information as requested by Purchaser.
   3. Foreign Suppliers: Compliance with 10 C.F.R. Part 810 Controls Additional Requirements. If Subcontractor is organized outside of the United States (a “***Foreign Supplier***”) and is provided by Purchaser or Supplier, during Subcontractor’s provision of the Work, technology, software, information or data related to the design, fabrication, construction, operation, or maintenance of a nuclear power plant that is not publicly available and that is controlled by the U.S. Department of Energy in accordance with Part 810 (“***Part 810-Controlled Technology***”):
      1. Subcontractor shall obtain Purchaser’s consent before engaging in a re-export of Purchaser’s Part 810-Controlled Technology to countries not listed in Appendix A to 10 C.F.R. Part 810 (each a “***Restricted Destination***”), including any Deemed Exports of Part 810-Controlled Technology to nationals or dual nationals of Restricted Destinations (“***Part 810-Controlled Re-export***”). Should providing such consent require Purchaser to obtain a Part 810 specific authorization from the Department of Energy in accordance with 10 C.F.R. §810.7, the Supplier or Subcontractor seeking to engage in the Part 810-Controlled Re-export either directly or via any Subcontractor shall bear the costs and expenses associated with obtaining such a specific authorization.
      2. Before engaging in a Part 810-Controlled Re-export to a country listed in Appendix A to 10 C.F.R. Part 810(a “***Generally Authorized Destination***”), Subcontractor shall ensure that it has an agreement in place with the recipient ensuring that any subsequent Part 810-Controlled Re-export to a Restricted Destination will take place only upon approval from the U.S. Department of Energy.
   4. Classified Commodities Provided to Supplier or Purchaser. To the extent any goods, technology, software, information or data being provided by Subcontractor to Supplier or Purchaser has been classified by Subcontractor or otherwise as being subject to export licensing requirements pursuant to the U.S. Export Laws, such as having been designated as falling under an Export Control Classification Number (“***ECCN***”) pursuant to the EAR , Subcontractor shall notify Supplier and Purchaser of that export classification in writing, no later than at the time of delivery. In the event Purchaser or Supplier has reasonable concerns over a classification that has been made by Subcontractor or over a failure to make a classification, Purchaser or Supplier may request that Subcontractor justify any classification that has been made or that Subcontractor, at its own expense, obtain a conclusive determination of the classification from the relevant agency of jurisdiction. Subcontractor’s refusal or failure to obtain such a determination shall, at Purchaser’s or Supplier’s option, serve as a basis for termination of this Agreement.
4. Prohibited Imports. Subcontractor must take all reasonable efforts to: (1) prohibit importing and then selling to Supplier or Purchaser, or (2) using in its supply-chain, any product that was mined, produced, or manufactured whoor in part by forced labor, including forced or indentured child labor pursuant to the Tariff Act of 1930, 19 U.S.C. § 1307. “Forced labor” shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, included forced or indentured child labor. A list of such products can be found on the Internet at https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods. Subcontractor is responsible for being familiar with the products posted by the Department of Labor, which may change from time to time during the term of this Addendum. If Subcontractor fails to abide by the requirements of this section, Supplier will provide Subcontractor with notice and a thirty (30) day opportunity to cure. Continued failure to abide by this requirement will be considered a material breach of this Addendum
5. Fines. Subcontractor will be solely responsible for and shall pay all costs and expenses associated with all fines or other penalties incurred by Purchaser or Supplier for Subcontractor’s noncompliance with any law, code, or regulation, or any costs (including Purchaser’s or Supplier’s reasonable attorneys’ fees) arising from, in connection with, or relating to delays or stop work orders imposed by a government agency or court due to Subcontractor’s noncompliance with law. This subsection (d) *Fines* is not intended to limit Purchaser’s right to make claims against Supplier with respect to the Subcontractor’s failure to comply with law, and Supplier shall not condition any payment to Purchaser on the existence of any claim against any Subcontractor.
6. **Miscellaneous**
7. Governing Law; Jurisdiction. The Parties intend that this Addendum be governed by the same state law as the Master Agreement without giving effect to such state’s choice of laws principles, and that any litigation of or concerning this Addendum shall be maintained in the courts also identified in the Master Agreement, and submit to their exclusive jurisdiction. Each Party hereto irrevocably waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such proceeding brought in such courts, including that either is an inconvenient forum. The Parties waive their rights to trial by jury.
8. Publicity. Without the prior written consent of Purchaser, Subcontractor shall make no public announcement or release any information concerning Purchaser, the Work, this Addendum or Subcontractor’s business relationship with Purchaser or Supplier, to any member of the public, the press, any business entity or any governmental authority (except as required by applicable laws, rules, regulations, or ordinances). Without limiting the generality of the foregoing, Subcontractor acknowledges and agrees that Purchaser shall have the right to control media access to Purchaser’s Premises and any responses to media inquiries regarding Purchaser or any emergency or other incident at Purchaser’s Premises, including without limitation, incidents involving personal injury, property damage or operational events.

**APPENDIX**

Supplier Code of Conduct

# Berkshire Hathaway Energy and its subsidiaries and affiliates are committed to maintaining the highest ethical standards in the conduct of the company’s business. This expectation applies to our vendors and suppliers as further detailed in this Supplier Code of Conduct.

Compliance with this Supplier Code is a requirement for becoming or remaining a Supplier with Berkshire Hathaway Energy (“Company”) and its subsidiaries and affiliates. “Suppliers” refers to any third party that provides goods or services to Berkshire Hathaway Energy and its subsidiaries and affiliates including, but not limited to, direct and indirect Suppliers, labor providers, logistics providers, service providers, and subcontractors of Company’s Suppliers and providers.

The expectations set forth in this Supplier Code are intended to supplement, not replace, requirements established by contract, policy or a Supplier’s own ethics and compliance guidelines.

Company expects all Suppliers and business partners to uphold and communicate the standards and expectations set forth in this Supplier Code within their own business operations and throughout their supply chain by adopting efficient management systems, policies, procedures and training.

Company requires all Suppliers to abide by all applicable national, state and local laws and regulations where they operate; however, where local laws or standards differ from this Supplier Code, we expect our Suppliers to comply with the more stringent standards and principles.

Berkshire Hathaway Energy is committed to working with and supporting our Suppliers to meet, and when possible, exceed, the requirements in this Supplier Code.

By execution of any contract or acceptance of any purchase order from Berkshire Hathaway Energy, the Supplier acknowledges acceptance of the Supplier Code and intention to comply with its requirements.

# Safety and Health

Berkshire Hathaway Energy is committed to providing a safe and healthy environment for all workers and the public. Company sets high standards for health and safety and believes all work should be performed without injury.

Company expects Suppliers to ensure safe working conditions and provide safe and healthy working environments for workers, including appropriate controls, training, work procedures and personal protective equipment.

Suppliers are required to comply with all applicable laws and regulations regarding working conditions. If contract or purchase order terms and conditions are more stringent than applicable laws and regulations, the contract or purchase order conditions shall prevail.

Poor safety performance and/or failure to adhere to Company’s safety and health policies may result in termination of the Supplier’s business relationship with Berkshire Hathaway Energy.

# Ethical and Legal Requirements

Berkshire Hathaway Energy requires Suppliers to adhere to the highest level of ethical conduct and fair dealing. The Company is committed to compliance with all laws in every country where we do business.

No Supplier shall enter into a transaction or engage in a practice that would constitute an actual or apparent conflict of interest between such Supplier and the Company. A conflict of interest occurs when a representative of a Supplier (or a family member) has a personal interest or involvement in an activity that could interfere with an objective, impartial and effective business relationship with the Company. An apparent conflict of interest occurs when personal interests or activities could lead others to doubt the Supplier’s objectivity or impartiality.

The Company expects Suppliers to share our commitment to ethics and compliance with legal requirements and to comport with the highest level of ethical standards when conducting business.

# Human Dignity and Labor

Berkshire Hathaway Energy is committed to fair employment practices including diversity and inclusion as well as equal employment opportunity. The Company respects the differences and unique talents and background of every employee and it is the policy and practice of the Company to provide equal employment and promotional opportunities to all employees based on their abilities, achievements and experience without regard to race, color, religion or religious creed, age, national origin, ancestry, citizenship status (except as required by law), gender, gender identity, gender expression, sex, pregnancy, sexual orientation, genetic information, physical or mental disability, veteran or military status, marital status or any other status as provided by the laws of the country where the Company does business. The Company is also committed to observing those laws that pertain to freedom of association, privacy, recognition and the right to engage in collective bargaining and to otherwise fully comply with all applicable employment discrimination laws wherever the Company does business. Berkshire Hathaway Energy does not tolerate harassment of any kind, including but not limited to sexual harassment, racial harassment or any other type of behavior that is hostile, disrespectful, abusive or humiliating and does not tolerate workplace violence of any kind, including intimidating or threatening actions.

Berkshire Hathaway Energy expects its Suppliers to share its commitment to a humane, diverse and inclusive workplace free from discrimination, harassment, coercion and any form of violence. Suppliers have a responsibility to uphold that commitment and report any acts (verbal, physical or visual) of harassment, intimidation or coercion related to race, color, religion or religious creed, national origin, ancestry, citizenship status (except as required by law), gender, gender identity, gender expression, sex, pregnancy, sexual orientation, genetic information, physical or mental disability, veteran or military status, marital status or any other status or classification protected by law.

Suppliers shall support and respect internationally recognized human rights. Suppliers shall not use, or participate in the exploitation of workers, forced, trafficked or involuntary labor. Use of child labor or employment of any person under the age of 15 by any Supplier is unacceptable. Suppliers shall not employ any person under the minimum legal age for employment as prescribed by the local authority. Suppliers are expected to ensure that wages, benefits and hours of work comply with all applicable laws and regulations.

# Security of Our Assets and Data Protection

Providing safe, reliable and sustainable service to our customers and communities is Berkshire Hathaway Energy’s highest priority. The Company’s resources, including company facilities, equipment, systems, technology assets, intellectual and informational property, data, materials, time, information and office and field supplies, are critical to providing the required level of service to our customers.

Suppliers are expected to protect Berkshire Hathaway Energy’s resources, including those referenced herein, and adhere to all access, network security, physical security and badging policies. Suppliers are expected to safeguard the Company’s confidential and proprietary information, trade secrets and other intellectual and informational property (which includes patents, copyrights, inventions, and other discoveries).

Suppliers are expected to implement and maintain a cybersecurity system designed to prevent unauthorized access to, and maintain the security of, their own computer systems, networks and information to prevent the unauthorized access to, and to maintain the security of, Berkshire Hathaway Energy’s computer systems, networks and information. Suppliers must notify Berkshire Hathaway Energy immediately in the event of suspected or actual unauthorized access to the Supplier’s or Berkshire Hathaway Energy’s computer systems, networks or information.

# Environmental Compliance and Stewardship

Environmental respect is one of Berkshire Hathaway Energy’s core principles and being good stewards of the environment is essential to the way we operate.

The Company expects its Suppliers to share its commitment to the environment by abiding by the letter and spirit of all federal, state and local environmental laws and regulations, as well as the Company’s policies and procedures related to pollution, waste disposal, emissions, stormwater management and wildlife and habitat protection. Suppliers are required to obtain and maintain all permits and registrations necessary to

conduct their work. Suppliers are also expected to perform all work and maintain their equipment in a manner that avoid spills and releases to the environment and, if a spill or release does occur during the performance of Supplier’s work for Company, to report those incidents in accordance with the Company’s policies.

Suppliers are encouraged to collaborate with Berkshire Hathaway Energy to eliminate waste and cost from the supply chain and use energy and natural resources responsibly and efficiently.

# Transparency and Governance

Suppliers must notify Berkshire Hathaway Energy of and promptly remedy any violation of this Supplier Code. A violation of this Supplier Code, including failure to report a violation, will jeopardize the Supplier’s business relationship with Berkshire Hathaway Energy and may result in termination of such Supplier’s business relationship with Berkshire Hathaway Energy.

Berkshire Hathaway Energy may conduct periodic assessments of human rights, diversity and inclusion, health and safety, environmental compliance and stewardship, asset protection and ethics and compliance to determine whether Suppliers’ processes, practices and systems meet the spirit and intent of this Supplier Code. By conducting such assessments, Berkshire Hathaway Energy does not assume oversight or direct responsibility for its Suppliers.



PARTNERS IN PROGRESS

BERKSHIRE HATHAWAY ENERGY SUPPLIER CODE OF CONDUCT

In our vision to be the best energy company in serving our customers, while delivering sustainable energy solutions, Berkshire Hathaway Energy and its subsidiaries and affiliates are committed to constantly maintaining the highest ethical standards in the conduct of the company’s business.

The Berkshire Hathaway Energy Supplier Code of Conduct sets forth expectations for Berkshire Hathaway Energy suppliers and business partners that are intended to supplement, not replace, requirements established by contract, policy or a supplier’s own ethics and compliance guidelines. This document summarizes the Berkshire Hathaway Energy Supplier Code of Conduct that can be found in its entirety at: [insert URL?].

# SAFETY AND HEALTH

Berkshire Hathaway Energy sets high standards for health and safety and believes all work should be performed without injury. Suppliers should ensure safe and healthy working conditions and environments for their workers, including appropriate controls, training, work procedures and personal protective equipment.

# ETHICAL AND LEGAL REQUIREMENTS

Suppliers must share Berkshire Hathaway Energy’s commitment to the highest level of ethical conduct and fair dealing, including compliance with all laws in every country where we do business, and utilize the highest level of ethical standards when conducting business.

# HUMAN DIGNITY AND LABOR

Suppliers have a responsibility to uphold Berkshire Hathaway Energy’s commitment to fair employment practices including diversity, inclusion and equal employment opportunity as well as a humane workplace free from discrimination, harassment, coercion and any form of violence, or any other type of behavior that is hostile, disrespectful, abusive or humiliating.

Additionally, suppliers shall support and respect all internationally recognized human rights and ensure age of workers, wages, benefits and hours of work comply with all applicable laws and regulations.

# SECURITY OF OUR ASSETS AND DATA PROTECTION

Suppliers are expected to protect Berkshire Hathaway Energy’s resources – including company facilities, equipment, systems, technology assets, data, materials, time, information, and office and field supplies – and adhere to all access, network security, physical security and badging policies.

# ENVIRONMENTAL COMPLIANCE AND STEWARDSHIP

Berkshire Hathaway Energy requires suppliers to share our commitment to environmental respect by abiding by the letter and spirit of all federal, state and local environmental laws and regulations, as well as Berkshire Hathaway Energy’s policies and procedures on pollution, waste disposal, emissions, stormwater management, and wildlife and habitat protection.

# TRANSPARENCY AND GOVERNANCE



Berkshire Hathaway Energy may conduct periodic assessments of human rights, diversity and inclusion, health and safety, environmental compliance and stewardship, asset protection, and ethics and compliance to determine whether a supplier’s processes, practices and systems meet the spirit and intent of the Supplier Code of Conduct. Suppliers must notify Berkshire Hathaway Energy of and promptly remedy any violation of this supplier code.