



**OPERATION AND MAINTENANCE SERVICES  
AGREEMENT**

**between**

**Massachusetts Electric Company**

**and**

**Borrego Solar Systems, Inc.**

**for**

**National Grid Phase II Solar Initiative**

**Operation and Maintenance Services at Select Sites**

**Effective Date: June 27, 2016**

## OPERATION AND MAINTENANCE SERVICES AGREEMENT

This Operation and Maintenance Services Agreement (the “Agreement”), is dated as of June 27, 2016 (the “Effective Date”) between Massachusetts Electric Company d/b/a National Grid USA, a Massachusetts corporation with offices at 40 Sylvan Road, Waltham, Massachusetts 02451 (“Company” or “National Grid”), and Borrego Solar Systems, Inc. (“Contractor”), a California corporation, having a place of business at 55 Technology Dr, Suite 102, Lowell, MA 01851 (each as a “Party” and collectively, the “Parties”).

### RECITALS

**WHEREAS**, Company owns certain solar photovoltaic electric generating systems; and

**WHEREAS**, Contractor and Company desire to enter into this Agreement pursuant to which Contractor will maintain and monitor certain solar photovoltaic generative systems on behalf of Company.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, intending to be legally bound and to bind their respective successors and assigns, the Parties do hereby mutually agree as follows:

### ***ARTICLE 1 - SCOPE OF WORK***

#### **1.1 Services.**

Contractor shall perform the services set forth in Schedule B (the “Services”) pursuant to each Site Subcontract Agreement Rider, as defined in Article 3, for each of the system(s) (“System(s)” located at each of the site(s) “Site(s)”) as set forth in Schedule D. Within five (5) business days of the completion of any Services, Contractor shall notify Company in writing by delivering a standard service call report.

#### **1.2 Additional Services.**

From time to time as mutually agreed by the Parties pursuant to Section 14.0 of the Schedule A, Company may request that Contractor provide other services related to the System beyond the scope of the Services (the “Additional Services”) at the hourly rates set forth in Schedule C. The terms and conditions of any Additional Services shall be set forth in a written change order signed by both Parties pursuant to Section 14.0 of the Schedule A and A-1 of this Agreement. Contractor shall have no obligation to complete such Additional Service(s) without a written change order, except in the event of an Emergency as set forth in Section 1.5. Except to the extent set forth in such change order, the terms and conditions of this Agreement shall apply to any Additional Services.

### **1.3 General Operating Standards.**

Contractor shall perform the Services (and Additional Services, as applicable) in accordance with;

- (i) the terms of this Agreement and the applicable Site Subcontract Agreement Rider,
- (ii) all applicable laws and applicable permits for performance of the Services,
- (iii) all applicable warranties and guarantees provided by manufacturers, suppliers or subcontractors,
- (iv) all manufacturer's maintenance instructions and specifications and
- (v) the requirements of any insurance policies maintained by Contractor with respect to the Systems.

### **1.4 Materials and Equipment.**

Contractor shall provide all tools and equipment needed to perform the Services (and Additional Services, as applicable) and all consumables used in connection with rendering the Services. Contractor shall procure, at Company's expense, all replacement parts, system components and equipment attached to, part of or constituting a System (together, the "Replacement Components") necessary for the performance of the Services during the Term, provided, however, if any such Replacement Components are required as a result of Contractor's failure to perform its obligations in accordance with the requirements of this Agreement, then Contractor shall procure such Replacement Components at Contractor's expense. All costs for Replacement Components will be itemized in the subsequent invoice to Company. To the extent available, Contractor will file warranty claims on behalf of Company for any Replacement Component under warranty.

### **1.5 Emergencies.**

In the event of any loss of power to major equipment (inverters, transformers, switchgear) or communication loss which causes or may cause the status of the System to become unknown (an "Emergency"), Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage or loss to the System and shall, within twenty-four (24) hours of being notified of same, report any such incident, including Contractor's response thereto, to Company.

### **1.6 Activities at the Site.**

Except in the event of an Emergency, Contractor shall perform its Services on the System at the applicable Site, and may perform certain monitoring and component inspection services off-site, during Contractor's regular business hours.

### **1.7 Monitoring Equipment.**

Contractor shall maintain the system monitoring equipment set forth on Schedule B at the Site, or such other monitoring equipment as is otherwise provided by Company from time to time ("System Monitoring Equipment"). Contractor shall use commercially reasonable efforts to ensure and monitor the Internet connectivity of the System Monitoring Equipment such that data regarding the performance of and output from the System shall be communicated electronically to Contractor on a continuous basis. Contractor agrees to notify Company within three (3) calendar days in the event any outages or other material issues arise from the System or any System Monitoring Equipment. Costs for Internet connectivity of monitoring equipment shall be at the Company's expense.

### **1.8 Access to System.**

Subject to any requirements of applicable law and pursuant to the terms of this Agreement, Company shall provide Contractor and its subcontractors, agents and employees with reasonable access to the System and the Site during reasonable times and without prior notice as required for the performance of Contractor's duties under this Agreement. Contractor will use reasonable efforts to schedule normal, routine maintenance in advance with the Company, landlord or property manager of each Site. Contractor will inform Company of all site visits which have taken place.

## ***ARTICLE 2 - CONTRACT DOCUMENTS***

The following documents, including all attached schedules, appendices, exhibits or other attachments thereto, are incorporated by reference as if fully set forth herein, are listed in the order of precedence and are hereinafter referred to collectively and individually as the "Contract Documents" or the "Agreement":

1. Schedule A-1 - Supplemental Terms and Conditions
2. Schedule A-2 - National Grid Terms & Conditions for Service Firm Purchase Orders
3. Schedule B - Services
4. Schedule C - Site Subcontract Agreement Rider
5. Schedule D –, Proposed Site(s), System(s), Cost and Warranty
6. Schedule E - Contractor Safety Requirements (dated 09/11/13)
7. Schedule F - Background Check Requirements Level 2 (dated 04/14/14)

In the event that the Contractor identifies any inconsistency (ies) or conflict(s) within or between the Contract Documents, Contractor shall immediately notify the Company's Contract Administrator in order for the Parties to resolve prior performance of the Services affected. In the event there is any inconsistency or conflict between the terms of Articles in this cover and the Contract Documents Contract Documents shall prevail.

## ***ARTICLE 3 – SITE AND TERM OF AGREEMENT***

### **3.1 SYSTEM AND SITE**

- (i) The Parties shall enter into a Site Subcontract Agreement Rider (a sample is attached hereto as Schedule C) for each System location listed in Schedule D (and any future site(s), upon Company's request), under which Contractor shall provide the Services for such System. Each system identified on an executed Site Subcontract Agreement Rider is hereinafter referred to in this Agreement as a "System" and the location of such system is hereinafter referred to in this Agreement as the "Site".
- (ii) In the event a Site Subcontract Agreement Rider is mutually agreed upon and executed by both Parties, the terms of each Site Subcontract Agreement Rider are hereby incorporated into this Agreement and in the event of conflict between this Agreement and a Site Subcontract Agreement Rider, the terms of the Site Subcontract Agreement Rider shall prevail in terms of such System.

### **3.2 TERM**

Unless terminated earlier in accordance with the terms of this Agreement, the term of this Agreement shall start upon of the Effective Date of this Agreement and run for a period of five (5 ) years thereafter. This Agreement may be renewed by written mutual agreement of both Parties.

## ***ARTICLE 4 – CONTRACTOR'S GENERAL OBLIGATIONS***

In addition to the terms and conditions otherwise set forth under this Agreement, the Contractor shall, and shall ensure that its employees, agents and sub-contractors shall:

- 4.1** Carry out the Services in accordance with reasonable industry practice (e.g., IFC 2012, NFPA 70 (NEC) 2014, etc).
- 4.2** Ensure that the Services are performed in accordance with this Agreement. Any work performed and/or expenses incurred by the Contractor resulting from the Contractor's negligence, willful misconduct or failure to comply with the terms of this Agreement shall be borne solely by the Contractor.

meet the requirements of all applicable laws and applicable permits.

### **4.4 Protection of Persons and Property; Notice of Accidents**

- (i) When the Contractor performs Services hereunder, the Contractor shall at all times exercise every reasonable precaution to protect persons and property and any items on which it is working. The Contractor shall exercise such precautions against fire, adopt and enforce such rules and regulations, and take such other precautions as may be reasonably necessary, desirable or proper, or as may be reasonably directed by Company. The Contractor shall, and shall cause any subcontractors, agents, servants and employees, while on or about the System or the Site, to observe and comply with all fire, safety, hazard, "No Smoking", and other rules and regulations

prescribed by Company or legally in effect at the time.

- (ii) The Contractor shall within twenty-four (24) hours report in writing to Company all serious accidents; and any claims made in connection with any accident arising out of or in connection with Contractor's performance of the Services, whether on or adjacent to the Site, which result in death, injury or property damage, giving full details and statements of witnesses. In addition, if death or serious injury or serious damage to property is caused, the Contractor shall as soon as practicable, but in no event later than the close of business of the date of the accident, orally report the accident to Company.
- (iii) Contractor shall give notices and comply with all applicable laws relating to safety of persons and property.

If at any time a third party suffers personal injury (including death) or property damage for which the Contractor is legally liable, no provision of this Agreement shall be construed as an agreement by Company to assume all or any part of such liability or, if Company is named or joined in any legal action or proceeding in connection therewith, to preclude, prejudice or limit Company's right to receive indemnification or contribution from the Contractor.

## ***ARTICLE 5 - CONTRACT PRICE***

### **5.1 Annual Fee**

Company shall pay Contractor for performance of the Services the annual fee ("Annual Fee") for each System in the amount set forth in Schedule D and on each Site Subcontract Agreement Rider. Contractor will invoice Company semiannually for the Services for each System and monthly for any Additional Services performed under each existing Site Subcontract Agreement Rider. The invoice will itemize which Services were performed for which System/Site. The Annual Fee and the fees for Additional Services shall increase by two percent (2%) upon each anniversary of the Effective Date during the Term of the Agreement.

### **5.2 Invoiced Fees**

Any Additional Services requested by Company and performed satisfactorily by Contractor shall be paid within thirty (30) days of the invoice date, unless provided otherwise in the work order for such Additional Services.

## ***ARTICLE 6 - NOTICES***

Notices required or permitted under this Agreement shall be addressed to:

Contractor:

Borrego Solar Systems, Inc.  
360 22nd St, Ste. 600  
Oakland, CA 94612  
Attn: William Bush CFO

[wbush@borregosolar.com](mailto:wbush@borregosolar.com)

Ph: (888) 898-6273

Company:

National Grid  
40 Sylvan Road  
Waltham, Massachusetts 02451  
Attn: Justin Woodard  
NES Customer Solutions

[Justin.woodard@nationalgrid.com](mailto:Justin.woodard@nationalgrid.com)

Ph: (781) 907-1617

With a copy to:  
General Counsel  
Borrego Solar Systems, Inc.  
360 22<sup>nd</sup> Street, Suite 600  
Oakland, CA 94612

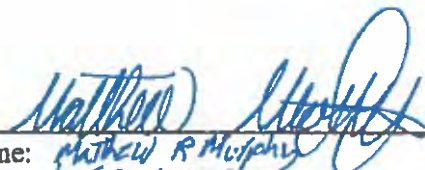
**ARTICLE 7 - ENTIRE AGREEMENT**

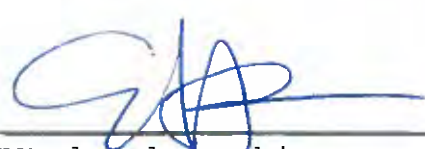
This Agreement, including all Contract Documents, constitutes the entire Agreement between the Company and the Contractor, with respect to the Services, and all previous representations relative thereto, either written or oral are hereby annulled and superseded. No modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each Party hereto.

**IN WITNESS WHEREOF**, each Party hereto has caused this Agreement to be executed by its duly authorized representative as of the Effective Date set forth above.

**Borrego Solar Systems, Inc.**

**Massachusetts Electric Company d/b/a  
National Grid**

By:   
Name: Matthew R. Michalek  
Title: Director of Construction

By:   
Name: Edward H. White  
Title: Vice President

## Schedule A-1

Supplemental Terms and Conditions  
to National Grid USA and Affiliated Companies  
Terms and Conditions for Services, Document No. 00300 (10/13/15)

### INTRODUCTION

These Supplemental Terms and Conditions will supplement Schedule A - Terms and Conditions for Construction Purchase Orders 0300 dated October 13, 2015 (“Terms and Conditions”). If and to the extent there is any conflict or inconsistency between these Supplemental Terms and Conditions and the Terms and Conditions, these Supplemental Terms and Conditions will prevail and be controlling.

1. SECTION 1.0 DEFINITIONS

**Section 1.19 will be deleted in its entirety and replaced with the following:**

“Indemnified Parties” means the Company, its Affiliates, and their officers, directors, employees, agents, successors and assigns, and any third party that Company or its Affiliates are required to hold harmless or indemnify by law or pursuant to: (a) a **written** contract or agreement for Work and Services performed under or in connection with this Agreement or (b) any property or access rights obtained in support of the Work and Services performed under or in connection with this Agreement.

2. SECTION 4.0 TIME OF PERFORMANCE

**In Section 4.4, replace "in the opinion" with "in the reasonable judgment of the Company".**

3. SECTION 8.0 WARRANTY AND REMEDY

**Section 8.1 (3) will be modified by replacing “highest” with “reasonable” as follows:**

3) all Services shall be performed by qualified, competent, and experienced personnel, and in accordance with **reasonable** standards of care, skill, and diligence, and consistent with recognized and sound professional practices and procedures;

**Section 8.2: Delete the following sentence in Section 8.2:**

The Company may require the Contractor to **use overtime work at no cost to the Company if such additional** effort will shorten the time the Work is nonconforming.

**Replace the deleted sentence above with following which removes the overtime language and adds best efforts:**



The Company may require the Contractor to use best efforts to shorten the time the Work is nonconforming.

Section 8.2: Change the warranty period in Section 8.2 from “twenty-four (24) months” to “twelve (12) months” so that the affected sentence in Section 8.2 now reads:

.....If any warranty work is provided, the Contractor’s warranties shall recommence upon the Company’s acceptance of such repaired, re-performed, cured, or replaced Work and shall be in effect for the duration of the warranty period or for **twelve (12) months** after completion of the warranty work, whichever is later. ....

**Section 8.4: Delete the first sentence of Section 8.4 in its entirety and replace with the following:**

If there are Contractor personnel at a Company Site, in the event that the Company believes, in its sole judgment, that any of the Contractor’s personnel are **behaving in an unsafe manner or violating or threatening to violate any of the Company’s safety requirements or the terms and conditions of the Agreement**, the Company shall so notify the Contractor, whereupon the Contractor shall promptly investigate and take appropriate corrective action including, where requested by the Company, removal of such personnel and replacement with personnel acceptable to the Company.

**Section 8.5: The language in bold will be added to the last sentence of Section 8.5 and such last sentence will be deleted in its entirety and replaced with the following:**

Except as is otherwise specified within the Agreement, all loss or damage to the Contractor arising out of its performance of the Work, whether due to the elements, unforeseen circumstances, or otherwise, shall be sustained and borne by the Contractor at its sole cost and expense **and all loss or damage to the Company to the extent caused by the Company shall be borne by the Company**

**Section 8.7 will be deleted in its entirety and replaced with the following:**

Instructions or explanations given by the Contract Administrator or the Company to the Contractor to complete, clarify or give proper effect to the Specifications, if any, will be deemed a part of the Specifications **provided that both the Contractor and Company mutually agree**. If there is any doubt as to the meaning of any portion or portions of the Specifications, such documents will be interpreted as calling for the best quality, as to materials, equipment and workmanship capable of being supplied or applied, and any explanation provided by the Contract Administrator’s **and mutually acceptable to the Contractor and the Company** will be final and conclusive.

#### **4. SECTION 9.0 PRICE/PAYMENT**

**Section 9.2: Delete “2% 10” from Section 9.2. Section 9.2 shall be deleted in its entirety and replaced with the following:**

Standard payment terms are Net 30. The Company shall pay all invoices not more than 30 Days after receipt by Company’s Accounts Payable Department of a proper invoice and any required supporting documentation, subject to the Company’s right to contest, in good faith,

all or any part of the charges set forth therein. **Unacceptable invoices may be returned to Contractor for correction and re-submittal. Late payment charges of 1 % per month, 12% per annum shall apply to payments that are not received within 30 days provided however such late payment charges will not apply to disputed amounts under this Agreement.** If there is a dispute about any amount invoiced by Contractor, the undisputed amount shall be paid, and any disputed amount to the extent ultimately determined to be payable, shall be paid within 30 days of resolution of the dispute. Payment shall not relieve the Contractor from any responsibilities or obligations under the Agreement, nor shall the Company's payment constitute acceptance or a waiver of any claim arising hereunder. No payment made hereunder, except for the final payment, shall be considered as acceptance of any Work. All payments shall be subject to correction or adjustment in subsequent payments.

**Section 9.3: Delete the first sentence in its entirety and replace with the following:**

9.3 Company shall pay Contractor by check or ACH.

**Section 9.5: Delete the words "whether or not" at the end of Section 9.5; delete in its entirety and replace with the following:**

9.5 The Company shall, without waiver or limitation of any rights or remedies, be entitled from time to time to deduct from any amounts due or owing the Contractor under the Agreement any and all amounts owed by the Contractor to the Company or a Company Affiliate, in connection with this Agreement.

## 5. SECTION 11.0 INSPECTION AND QUALITY ASSURANCE

**Section 11.5: Add at the Company's expense and modify the first sentence of Section 11.5 as follows:**

At any time during the term of the Agreement, the Company or its designated representative shall, **at the Company's expense**, be entitled to:

**Section 11.7: Section 11.7 will be deleted in its entirety and replaced with the following:**

11.7 In addition to any notice requirements otherwise set forth in the Agreement, the Contractor shall give the Company (a) reasonable prior written notice of any tests and inspections required by the Agreement, the Company or its representatives' instructions, laws, regulations or ordinances to be witnessed or approved by the Company, (b) reasonable notice of all other tests and inspections, and (c) additional reasonable notice prior to actual performance of any test or inspection. Inspections by the Company shall be made promptly, and where practicable at the source of supply.

**Section 11.10: The first sentence of Section 11.10 will be bifurcated and shall not read as follows:**

The Company shall, at its sole expense, have the right to inspect all materials, supplies, and equipment that are to be incorporated in the Project. The Company shall have a right to make or cause to be made all tests required by the terms of the Agreement.

**6. SECTION 12.0 FINAL ACCEPTANCE/ACCEPTANCE PAYMENT**

**Section 12.4 will be deleted in its entirety and replaced with the following:**

Acceptance of the final and last payment shall constitute a waiver of all claims for payment after expiration or termination under the Agreement by the Contractor

**7. SECTION 14.0 CHANGES TO WORK SCOPE/AGREEMENT CHANGES**

**Section 14.1: Section 14.1 will be modified by adding the language in bold to make all changes subject to mutual agreement of the parties. Section 14.1 will, therefore, be deleted in its entirety and replace with the following;**

No additions to, deletions from, or alterations in the Work and no amendment or repeal of, and no substitution for any terms, conditions, provisions or requirements of the Agreement shall be made **unless authorized by the Company and mutually agreed upon in writing by the Company and the Contractor.** No oral changes in the Agreement shall be recognized by the Company unless in accordance with Section 26.2.

**Section 14.2 will be deleted in its entirety and replaced with the following:**

The Company may at any time make requested additions to or deletions from or changes in the Project and/or Work, including proposed changes to the Specification or the schedule. If a Company requested change will add to or deduct from the Contractor's cost of the Work or affect the schedule, the Contractor shall notify the Company in writing within five Days of receipt of such Company-requested change and provide a written estimate of such cost and/or schedule modifications and, if the **Company and Contractor agree to such written estimate**, the Agreement will be adjusted accordingly. Any claim for an extension in the schedule caused thereby shall be adjusted at the time of requesting such change and the value of any such change shall be determined as provided in Section 14.5.

**Section 14.4 will be deleted in its entirety and replaced with the following:**

14.4 The Company may request that the Contractor to proceed with Work that is the subject of a proposed or claimed change in the Work prior to the **Company's and Contractor's mutual agreement** to any change in the price or schedule, in which event the Company shall so notify the Contractor in writing, and if the Contractor agrees, the Contractor shall then proceed with the Work, and keep an accurate account of such, and the Contractor and the Company shall then negotiate in good faith with respect to such change.

**Section 14.5: Under Section 14, subsection (c), subsections 14.5.1 and 14.5.2, will be deleted in their entirety and replaced as follows:**

14.5.1 Reimbursement for all Subcontractors, subject to the Company's prior authorization to subcontract in each specific instance of change, based on costs actually and reasonably incurred in performing changes. Applicable Subcontractor costs shall be subject to the same terms and

conditions set forth in Section 14.5, unless otherwise **mutually agreed**;  
and

14.5.2 Reimbursement for the actual verifiable net cost of materials (with 10% mark-ups) directly purchased in support of the extra Work as authorized by the Company.

**Section 14.8 will be modified to include the concept of Additional Services that the company may request of the Contractor which are outside of the Scope of Services:**

14.8 All additional work or Additional Services (as such term is defined under the cover of this Agreement) shall be performed in accordance with the terms and conditions of the Agreement insofar as they are applicable thereto.

## **8. SECTION 18.0 TERM/TERMINATION**

### **a. SECTION 18.1 TERMINATION FOR CAUSE**

**Section 18.1.5 will be modified by adding “material” to subsection (1) and deleting subsections (9) and (11). Section 18.1.5 will be deleted in its entirety and replaced with the following:**

18.1.5 Notwithstanding any other provision of the Agreement, if the Contractor: (1) fails to prosecute the Work with diligence or has fallen behind the schedule and if in the opinion of the Company, fails to take all necessary steps to remedy the Contractor’s failure to comply with the terms of the schedule; (2) fails to make prompt payment when due to Subcontractors; (3) fails to comply with any of the **material** terms or conditions of the Agreement; (4) sells or transfers all or substantially all of its assets without the Company’s prior written consent; (5) enters into any voluntary or involuntary bankruptcy proceeding or receivership; (6) makes a general assignment for the benefit of its creditors; (7) experiences a labor dispute which threatens adversely to affect the progress or cost of the Project hereunder or the Company’s operation; (8) abandons the Work; or (9) refuses or neglects to provide sufficient and properly skilled or other labor or sufficient materials of proper quality, then the Company shall have the right, without prejudice to any other right or remedy to terminate the Agreement, in whole or part. Such termination shall be effective upon written notice to the Contractor setting forth (a) the date of the termination and (b) that the Contractor shall immediately discontinue the Work to the extent specified in such notice. The Company may exercise its right of partial termination under the Agreement any number of times.

**Section 18.1.6 will be deleted in its entirety and replaced with the following:**

18.1.6 In the event the Company terminates all or any part of the Agreement for cause, the Company may finish the Work or have the Work finished by a third party by whatever method it may deem expedient. The Company shall make reasonable efforts to minimize the cost of completion of the Work, but Contractor acknowledges that Company may be required by regulations, schedule considerations, or other factors governing its conduct not to use the

lowest-price alternative to accomplish such completion; and the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price as determined under the Agreement exceeds the expense of finishing the Work, including compensation for additional managerial and administrative services provided by an external third party and contractor and all other costs and expenses actually incurred by the Company as a direct result of the breach and termination, the Contractor hereby waives such excess. If such expenses exceed the unpaid balance, the Contractor shall pay the difference to the Company within 30 Days of the Company's notice thereof to the Contractor.

**Add new Section 18.1.11 below to Section 18.1:**

18.1.11 Subject to Section 9.0 above, if the Company breaches its payment obligation under this Agreement and fails to cure such breach within 60 days after receipt of written notice by the Contractor, then the Contractor shall have the right to terminate the Agreement, in whole or part.

9. **SECTION 18.2.0 TERMINATION FOR CONVENIENCE**

**Section 18.2.1: Delete "for any reason" and modify the beginning of Section 18.2.1 as follows:**

Notwithstanding any other provision of the Agreement, the Company **may, at its sole discretion, for any reason, by sixty (60) days advance notice to the Contractor**, terminate the Agreement in whole or in part without cause, and such termination shall not constitute a breach of contract. Such termination shall be effective upon the date set forth in the written notice and the Contractor, unless otherwise directed by the Company, shall immediately:

**Add new Section 18.5 providing termination for convenience rights to the Contractor for *force majeure* events.**

18.5 Subject to this Section 21.0, the Contractor may terminate the Agreement within sixty (60) days advanced written notice to the Company.

10. **SECTION 19.0 COMPANY'S RIGHT TO SUSPEND THE AGREEMENT**

**Section 19.1: Delete "at its sole discretion" from the original language and add the language in bold below and Section 19.1 will be deleted in its entirety and replaced with the following:**

**19.1 If the Contractor or any of its personnel or subcontractors is/are behaving in an unsafe manner or violate(s) or threaten(s) to violate any of the Company's safety requirements or the terms and conditions of the Agreement**, then the Company may interrupt, suspend or delay execution of all or any part of the Project for any reason whatsoever upon written notice to the Contractor specifying the nature and expected duration of the interruption, suspension or delay. The Company's notice of suspension shall designate the amount and type of labor and equipment to be committed to the Work, if any, during the period of suspension. The Contractor shall utilize its labor, equipment

and any other resources so that costs are minimized during the suspension. Except as provided in Section 34.6, if, in the Contractor's opinion, such interruption would result in substantially increased cost, the Contractor shall promptly notify the Company in writing in accordance with Section 14.0.

## 11. Section 21.0 FORCE MAJEURE

**Section 21.1 will be deleted in its entirety and replaced with the following:**

21.1 Any delay of either party in the performance of its required obligations hereunder **(excluding any obligations to pay monies due under this Agreement)** shall be excused if and to the extent caused by unprecedented weather conditions, fire, explosion, riot, war, **terrorism, acts of God**, strike by the Company's or its Affiliates' employees, court injunction or order, federal and/or state law or regulation, or order by any federal or state regulatory agency, but only to the extent that: 1) such events are beyond the reasonable control of the party affected, 2) such events were unforeseeable by the affected party and the effects were beyond its reasonable efforts to prevent, avoid or mitigate, 3) the affected party uses every reasonable effort to prevent, avoid or mitigate the effects, 4) prompt written notice of such delay be given by such affected party to the other; and 5) the party affected uses its best efforts to remedy the resulting effects in the shortest practicable time. Upon receipt of such notice, if necessary, the time for performing the affected activities shall be extended for a period of time reasonably necessary to overcome the effect of such delays. Such extension shall be the sole remedy and compensation for each force majeure event. Notwithstanding the foregoing, the Company shall have the right to terminate the Agreement under Section 18.2. Subject to the terms and conditions of this Section 21.1, the Contractor may terminate the Agreement pursuant to Section 18.5.

**Section 21.2 will be deleted in its entirety and replaced with the following:**

21.2 The written notice required under Section 21.1 shall be sent by the affected party **as soon as practicable but in no event later than** within five Days of the commencement of any such delay and shall specify the nature, cause, date of commencement and anticipated extent of such delay or nonperformance and whether it anticipates that any delays in scheduled delivery or performance will result. Such notice shall be submitted in ample time to permit full investigation and evaluation of any claimed delay or nonperformance. Failure to provide such notice shall constitute a waiver of any claim.

**Section 21.4 will be deleted in its entirety and replaced with the following:**

21.4 Notwithstanding the foregoing, neither the Contractor's inability to obtain required **permits for its Services** on schedule, nor strikes and/or labor disputes involving the Contractor's and its Subcontractors' employees shall be considered a force majeure event.

## 12. Section 22.0 INDEMNITY AND LIABILITY

**Section 22.1 will be deleted in its entirety and replaced with the following:**

To the fullest extent allowed by law, the Contractor shall indemnify, defend, and save harmless the Indemnified Parties from any loss, damage, liability, cost, third party suit, charge, expense (including the Indemnified Parties' reasonable legal expenses), or third party cause of action, real property, personal property and/or environmental damages, and injuries to persons (including in death), caused by or arising out of (i) any act or omission of the Contractor in breach of the Agreement, (ii) the negligence, willful misconduct, or breach of law of the Contractor, its agents, employees, Subcontractors, and suppliers, (iii) any third-party claim under U.S. law pertaining to copyright infringement, trademark infringement, libel, slander, defamation, invasion of privacy, piracy, or plagiarism arising from the Company's use, consistent with the terms of the Agreement, of the final deliverables (except to the extent that such third-party claim arises from materials supplied by the Company, or any unauthorized modifications to the deliverables by the Company), or (v) failure of the Contractor or its Subcontractors to comply with Laws and Standards. The Indemnified Parties shall not be indemnified or held harmless against liability for damage arising out of bodily injury to persons or damage to property to the extent caused by or resulting from the negligence of the Indemnified Parties.

**Section 22.6 will be deleted in its entirety.**

**Add new Section 22.9 to Section 22.0 as follows:**

22.9 With the exception of the Contractor's indemnity obligations hereunder, Contractor shall NOT be liable to Company for any incidental, consequential, special, contingent, multiple, or punitive damages in connection with the Agreement, including, without limitation, loss of profits, attorney's fees, or litigation costs for any actions undertaken in connection with or related to the Agreement, including without limitation damage claims based on causes of action for breach of contract, tort (including negligence), Massachusetts Chapter 93A (Regulation of Business Practices for Consumers Protection), or any other theory of recovery.

**Add new Section 22.10 to Section 22.0 as follows:**

22.10 With the exception of the Contractor's indemnity obligations under this Agreement, the Contractor's aggregate liability for direct damages under the Agreement will not exceed the Contract Price.

### **13. Section 23.0 INSURANCE**

**Section 23.1.2 will be modified as follows:**

23.1.2 Commercial General Liability (CGL) Insurance, covering all operations to be performed under the Agreement, with minimum limits of:

Combined Single Limit           \$1,000,000 per occurrence

General Aggregate and

Product Aggregate           \$4,000,000

This policy shall include Contractual Liability and Products-Completed Operations coverage. If the Products-Completed Operations coverage is written on a claims-made basis, coverage shall be maintained continuously for at least two (2) years after acceptance of work completed in accordance with the Company.

**Section 23.1.6 will be deleted in its entirety.**

**14. Section 24.0 RIGHTS, CLAIMS AND DISPUTES**

**Sections 24.1 and 24.2: Modify the language in Section 24.1 and 24.2 by changing the 30 day time period requirement to 90 days as follows:**

24.1           Any claim which the Contractor may have against the Company arising out of the Work shall be presented in writing to the Company no later than **90** days after the first occurrence of the circumstance which gave rise to the claim. The claim shall contain a concise statement of the question or dispute and the relevant facts and data (including the applicable Agreement provision) which support the claim. The Contractor shall furnish any additional information which the Company may require to enable it to evaluate and decide the claim.

24.2           Failure to submit any claim in such **90**-day period shall constitute a waiver on the Contractor's part for entitlement to either additional reimbursement or additional time for performance under the Agreement.

**15. Section 27.0 DOCUMENTS/INTELLECTUAL PROPERTY**

**Add new Section 27.8 which will read as follows:**

27.8           Notwithstanding the foregoing, Contractor is permitted to retain archival or backup copies made in the ordinary course of business and/or records it is required by law to retain; however, all such archival and backup copies will remain subject to the confidentiality terms of this Agreement.

**16. Section 28.1 CONFIDENTIALITY/PROPRIETARY INFORMATION**

**Section 28.1 will be made mutual and will be deleted in its entirety and replaced with the following:**



28.1 Each Party hereby acknowledges that during the course of the Contractor's participation in a bid and/or selection process and in the performance of the requirements of the Agreement, the Parties may share, be furnished with or exposed to information that is proprietary and confidential ("Confidential Information"). The Party disclosing such Confidential Information is referred to herein as the "Disclosing Party" and the Party receiving such Confidential Information is referred to herein as the "Receiving Party." Confidential Information shall include but shall not be limited to information concerning pricing, terms and conditions, customers, employees, facility locations, techniques, methods, computer programs, software, drawings, maps, plans, and data relating to the Company and/or its Affiliates.

**Section 28.9 will be deleted in its entirety and replaced with the following:**

28.9 The obligations set forth in this Section 28.0 shall survive expiration or termination of this Agreement for a period of **three (3)** years.

**17. Section 35.0 ADDITIONAL CONTRACTS AND INTERESTS**

**Section 35.3: The last sentence of Section 35.3 will be deleted and Section 35.3 will be deleted in its entirety and replaced with the following:**

35.3 The Company reserves the right to enter into other contracts related to the Agreement or the Project and may require any other contractor, including the Company or its Affiliates, to provide labor or materials to the Project, and such other contracts shall not be cause for the Contractor to claim a change in the Project under Section 14.0.

**Section 35.4: Add to the end of the Section 35.4:**

"except to the extent an increase in price is submitted for approval to the Company, approved by the Company and agreed upon in writing by the Company and Contractor".

**18. Section 36.0 LIENS/BONDS**

**Section 36.1 will be deleted in its entirety.**

**19. Section 37.0 ASSIGNMENT AND SUBCONTRACTING**

**Section 37.1: Add "which consent shall not be unreasonably delayed" and Section 37.1 will be deleted in its entirety and replaced as follows:**

37.1 The Agreement is binding upon the Parties and their heirs, executors, administrators, successors, and assigns. The Contractor shall not assign the Agreement, or any of the moneys to become due and payable under the Agreement, or subcontract the whole or any part of the Work, without first having obtained the Company's written consent to such assignment or subcontract, **which consent shall not be unreasonably delayed.** Any such assignment or subcontract for which the Company's written consent is not obtained will be null and void. If the Contractor proposes to subcontract any of the Work, it shall give written notice thereof to the Company specifying the name, address, qualifications, and experience of the Subcontractor, and the specific Work which the Subcontractor is to perform. If the

Company consents in writing, the Contractor may subcontract the specific Work to the Subcontractor. All Work performed for the Contractor by a Subcontractor shall be pursuant to an agreement between the Contractor and Subcontractor which binds the Subcontractor to the applicable terms and conditions of the Agreement for the benefit of the Company and its Affiliates.

**20. Section 40.0 COMPLIANCE WITH LAWS AND STANDARDS**

Section 40.4 will be deleted in its entirety and replaced with the following:


40.4 Contractor shall, in connection with anything provided by the Contractor hereunder, make its best efforts to comply with Company's Diversity Program requirements. Such requirements include but are not limited to completion and return of the "The Contractor Diversity Bid Form," quarterly reporting on the Contractor's utilization of diversified contractors, and maintenance of certifications from accredited institutions on file, which files will be subject to Company audit.

**21. Section 44.0 JURISDICTION AND GOVERNING LAW**


Section 44.3 shall be made mutual and will be deleted in its entirety and replace with the following:

44.3 Each party hereby waives personal service by manual delivery and agrees that service of process in any action arising out of the Agreement may be made by registered or certified mail, return receipt requested, directed at its address set forth in the Agreement.

**BORREGO SOLAR SYSTEMS, INC.**

By:   
Name: Matthew Murphy  
Title: Director of Operations

**MASSACHUSETTS ELECTRIC COMPANY  
d/b/a National Grid**

By:   
Name: Edward H. White  
Title: Vice President

Schedule A-2



**TERMS AND  
CONDITIONS  
FOR  
SERVICE FIRM  
PURCHASE ORDERS**

**Form 00300 (Rev. October 13, 2015)**

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## 1.0 DEFINITIONS

For purposes of these Terms and Conditions and as used in the purchase order or Agreement incorporating these Terms and Conditions, the following commonly used terms, wherever used with initial capitalization, whether in the singular or the plural, are defined as follows:

- 1.1 “Affiliate” means any entity Controlled by, Controlling, or under common Control with an entity.
- 1.2 “Agreement” means the form of agreement document executed by the Company and the Contractor setting out, among other things, the parties and the term. Where no such form of agreement document is entered into, the Agreement shall be the purchase order issued to the Contractor by the Company which refers expressly to these Terms and Conditions. For the avoidance of doubt, a notification by the Company to the Contractor of the award of a contract shall not constitute an Agreement and shall not create any contract between the Company and the Contractor. For the further avoidance of doubt, where a purchase order and a formal form of agreement document are issued by the Company, then the formal form of agreement document shall take precedence and no contract shall be formed until that form of agreement document has been executed by both parties.
- 1.3 “CIP” means Critical Infrastructure Protection as defined in the contract document that contains the NERC reliability standards.
- 1.4 “Company” or “Owner” means National Grid USA Service Company, Inc. and/or one or more of its Affiliates, successors and assigns identified in the Agreement.
- 1.5 “Contract Administrator” means the Company’s representative(s) designated to direct, inspect and coordinate the performance and delivery of the Work.
- 1.6 “Contract Documents” means all documents identified as such in the Agreement.
- 1.7 “Contract Number” means the SAP numeric associated with the Agreement.
- 1.8 “Contract Price” shall have the meaning set forth in the Agreement, or if not expressly set forth, shall mean the total amount to be paid by the Company to the Contractor under the Agreement.
- 1.9 “Contractor” means the business entity named in the Agreement as the party furnishing Work to the Company, and, if authorized by the Company, Contractor’s successors and assigns.
- 1.10 “Control” (including with correlative meanings, the terms “Controlling,” “Controlled by” and “under common Control with”) means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by trust, management agreement, contract or otherwise, provided, however, that beneficial ownership of 50% or more of the voting equity interests of an entity shall be deemed to be Control.
- 1.11 “Critical Asset” means facilities, systems, and equipment which, if destroyed, degraded, or otherwise rendered unavailable, would affect the reliability or operability of the Bulk Electric System (as defined by FERC).
- 1.12 “Critical Cyber Assets” mean Cyber Assets that are essential to the reliable operation of Critical Assets.
- 1.13 “Cyber Assets” means programmable electronic devices and communication networks including hardware, software, and data.

- 1.14 “Day” means a calendar day, except that if an obligation of the Agreement falls due on a Saturday, Sunday or legal holiday in the jurisdiction where the Site is located such obligation shall be due the next regular working day.
- 1.15 “Dollars” and “\$” means United States of America dollars.
- 1.16 “Final Acceptance” means that date when the Company issues a certificate to the Contractor certifying that the Work has been fully performed in accordance with the terms and conditions of the Agreement.
- 1.17 “Goods” means the goods to be provided in accordance with the Agreement specifications.
- 1.18 “HUBZone Small Business Concern” means a Small Business Concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
- 1.19 “Indemnified Parties” means the Company, its Affiliates, and their officers, directors, employees, agents, successors and assigns, and any third party that Company or its Affiliates are required to hold harmless or indemnify by law or pursuant to: (a) a contract or agreement for Work and Services performed under or in connection with this Agreement or (b) any property or access rights obtained in support of the Work and Services performed under or in connection with this Agreement.
- 1.20 “Insured Parties” means the Company or Owner, its Affiliates, and their officers, directors, employees, agents, successors and assigns and any third party that Company or its Affiliates are required to hold harmless or indemnify by law or pursuant to: (a) a contract or agreement for operations, Work, and Services performed under or in connection with this Agreement or (b) any property or access rights obtained in support of the operations, Work, and Services performed under or in connection with this Agreement.
- 1.21 “ISNetwork” and “ISN” mean the fee-based third party services contracted by Company to receive, store, manage and maintain various records for Company related to Contractor safety and vendor On-boarding.
- 1.22 “NERC” means the North American Electric Reliability Corporation.
- 1.23 “Partial Performance Payment” means the payment to which the Contractor is entitled for Work actually performed after the Company has provided Contractor with notice to commence Work and before the Company terminates all or a portion of the Agreement for convenience.
- 1.24 “Party” means either the Company or the Contractor, and any reference to “Parties” shall mean the Company and the Contractor.
- 1.25 “Physical Security Perimeter” means the physical completely enclosed (“six-wall”) border surrounding computer rooms, telecommunications rooms, operations centers, and other locations in which Critical Cyber Assets are housed and for which access is controlled.
- 1.26 “Prohibited Act” means:
- 1.26.1 offering, giving or agreeing to give to the Company, any of its Affiliates, or any persons associated with it or them including its or their officers, employees or agents, any gift or consideration of any kind as an inducement or reward: (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Agreement or any other contract with the Company or any of its Affiliates; or (ii) for showing or not showing favor or disfavor to any person in relation to the Agreement or any other contract with the Company or any of its Affiliates;

- 1.26.2 entering into the Agreement or any other contract with the Company, any of its Affiliates, or any persons associated with it or them where a commission has been paid or has been agreed to be paid by the Contractor or on its behalf, or to its knowledge, unless, before the relevant contract is entered into, particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Company;
- 1.26.3 committing any offense: (i) under the United Kingdom's Bribery Act 2010 (or engaging in any activity, practice or conduct which would constitute an offense under that act if such activity, practice or conduct had been carried out in the United Kingdom); (ii) under legislation creating offenses in respect of fraudulent acts, or (iii) at common law in respect of fraudulent acts in relation to the Agreement or any other contract with the Company or any of its Affiliates;
- 1.26.4 engaging in any activity, practice or conduct which does not comply with the Company's anti-bribery and anti-corruption policies as notified in writing to the Contractor from time to time by or on behalf of the Company;
- 1.26.5 doing, or omitting to do, any act that will cause or lead the Company or any of its Affiliates to be in breach of the Bribery Act 2010 and/or the policies referred to in Section 1.26.4 above; or
- 1.26.6 defrauding, attempting to defraud or conspiring to defraud the Company or any of its Affiliates.
- 1.25 "Project" means the totality of a Company-defined scope, to be completed within a specified time and cost, and all things associated therewith, of which the Work performed under the Agreement may be the whole or a part and which may include work performed by the Company or its Affiliates or by other contractors.
- 1.26 "Purchase Order" means the serially numbered document issued by the Owner for accounting purposes. Purchase Order numbers should be referenced by the Contractor for invoicing purposes.
- 1.27 "Purchase Order Number" means the number identified as such in the Agreement which may be used for the Company's internal accounting and document tracking.
- 1.28 "RFP" and "Request for Proposal" mean the documentation associated with the tender solicitation.
- 1.29 "Service-Disabled Veteran" means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service connected, as defined in 38 U.S.C. 101(16).
- 1.30 "Service-Disabled Veteran-Owned Small Business Concern" means a Small Business Concern not less than 51 percent of which is owned by one or more Service-Disabled Veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more Service-Disabled Veterans; and the management and daily business operations of which are controlled by one or more Service-Disabled Veterans or, in the case of a Service-Disabled Veterans with permanent and severe disability, the spouse or permanent caregiver of such veteran
- 1.31 "Services" means all the labor and other services provided by the Contractor in connection with the Agreement.
- 1.32 "Site" means the geographical location or facility where the Work will be performed.
- 1.33 "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.



- 1.34 “Small Disadvantaged Business Concern” means a Small Business Concern that represents, as part of its offer, that it has received certification as a Small Disadvantaged Business Concern consistent with 13 CFR part 124, Subpart B; and that no material change in disadvantaged ownership and control has occurred since its certification.
- 1.35 “Specification” means the technical requirements and procedures, including any accompanying appendices, contained in, referenced by, or attached to the Agreement.
- 1.36 “Subcontractor” means any organization, firm or individual, regardless of tier, which the Contractor retains during the term of the Agreement to provide Goods or Services in connection with the Agreement.
- 1.37 “Supplemental Conditions” means those terms and conditions, if included in the Agreement, which add to or modify other Contract Documents and are incorporated by reference as if fully set forth in the Agreement. In the case of a conflict between the Supplemental Conditions and any other Contract Document, the Supplemental Conditions shall prevail.
- 1.38 “Veteran-Owned Small Business Concern” means a Small Business Concern not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and the management and daily business operations of which are controlled by one or more veterans.
- 1.39 “Women-Owned Small Business Concern” means a Small Business Concern that is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.
- 1.40 “Work” means all operations, duties, responsibilities, and obligations to be performed by the Contractor as specified, stated, indicated or implied, whether temporary or permanent, by the Agreement including, but not limited to, the provision of Services.

## **2.0 SCOPE OF WORK**

- 2.1 Contractor shall perform all the Work and Services and do all that is necessary to complete its portion of the Project in accordance with the Agreement (including all Contract Documents and any attached schedules, exhibits and appendices which are incorporated by reference), and in accordance with all applicable permits, Federal, state, and local engineering, construction, safety, environmental, building and electrical codes, standards, directives, requirements, rules, regulations, laws and ordinances (whether the same are in force upon the execution of the Agreement or may in the future be passed, enacted or directed). The Contractor is, and shall at all times remain, an independent contractor.
- 2.2 Contractor shall furnish all necessary management, technical, and other personnel necessary for the timely prosecution of the Work to the Company’s satisfaction.

## **3.0 CONTRACTOR PERSONNEL**

- 3.1 The Contractor shall, and shall require its Subcontractors to comply with the Company’s background check requirements as defined in the Company’s policies and procedures set forth in this Agreement and as may be amended from time to time.
- 3.2 In the event of the Contractor’s non-compliance with any or all of these background-check requirements, the Company may cancel the Agreement for its convenience pursuant to the termination provisions contained in the Agreement except that in no event shall the Company or its Affiliates be liable for any

termination cost/charges to the Contractor beyond compensation for Work performed up to the date of such cancellation.

- 3.3 The Contractor shall be wholly and solely responsible for all acts of its personnel while engaged in the Work. Any illegal acts, including but not limited to terrorism affecting property and/or personnel of the Company or its Affiliates, the Contractor or third parties shall be considered grounds for finding the Contractor in default and terminating the Agreement for cause in accordance with Section 18.1, in addition to all other rights and remedies available to the Company and its Affiliates under applicable law.

#### 4.0 TIME OF PERFORMANCE

- 4.1 The Contractor shall perform the Work in accordance with the schedule agreed to by the Parties. Once commenced the Work shall be prosecuted continuously to completion unless otherwise agreed to by the Company. The Contractor shall notify the Company orally and then in writing of any anticipated delays; however, such notification shall not relieve Contractor of any of its obligations or affect any of the Company's available remedies.
- 4.2 The Contractor shall maintain a labor force of sufficient size and competence to conform to and complete all Work on schedule and within the scheduled hours and days set forth in the schedule unless otherwise directed or approved by the Company.
- 4.3 Contractor shall limit the Work at the Site to eight hours per day and 40 hours per week and normal working hours, between 7:00 a.m. - 5:00 p.m., Monday through Friday, unless otherwise specified elsewhere in the Agreement. Extended hours shall be subject to the Company's prior written approval.
- 4.4 **Time of performance is of the essence.** If, at any time during the term of the Agreement, except for delays occurring pursuant to Section 21.1, in the opinion of the Company the Contractor does not meet the schedule, the Company may for each incident of delay, at no additional cost to the Company, at its sole option, in addition to any other rights it may have:
- 4.4.1 Require the Contractor to get back on schedule by working additional shifts and/or additional days and/or increasing its manpower, supervision, and/or equipment; and/or
- 4.4.2 Treat such failure as a material breach and repudiate and terminate the Agreement in accordance with Section 18.1 and collect damages; and/or
- 4.4.3 Require the Contractor to pay the Company liquidated damages, as may be provided for in the Agreement, provided, however, once the Company elects liquidated damages for an incident of delay its right to invoke the remedies under 4.4.1 or 4.4.2 for such delay shall be extinguished.
- 4.5 Any failure by the Company to invoke any of the provisions of Section 4.4 shall not constitute a waiver of its right to subsequently invoke such provisions or its entitlement to any other damages provided for elsewhere in this Agreement.
- 4.6 No request for extension of time for completion of the Work, or any other change to an approved schedule, shall be granted to the Contractor unless in a writing signed by the Company, and except as provided in Section 21.1, 14.0, and 19.1.
- 4.7 Notwithstanding the foregoing, if the Contractor incurs delays and believes that changes in the Project or changed conditions beyond the Contractor's control are the cause of the delay, the Contractor shall provide prompt written notice to the Company in the manner set forth in Section 14.3 of the changes or changed conditions that it believes justify excusing the Contractor from meeting the schedule. If the Company agrees with the Contractor, the Company will, in accordance with Section 14.3, approve an extension of

time for completion of the Work. Such extensions of time however shall not include any additional payment for extended overhead.

- 4.8 If the Contractor is delayed by any act or omission by the Company, or by interference by a public authority, or strikes or injunctions, none of which are caused, instituted, or provoked by the Contractor or by any Subcontractor, agent, or representative of the Contractor, and if the Contractor cannot with reasonable diligence, due to such act or omission, interference, strike or injunction, make up for such delay or delays, then the specified date or dates for completion of the work or services or the portion or portions thereof so delayed will be extended by the Company by the amount of time for such delay as determined by the Contract Administrator. Notwithstanding the foregoing, no periods of such delay will be deemed to begin until written notice thereof has been given by the Contractor to the Company. If the Contractor cannot make up for such delay by applying reasonable diligence and speed, then the Contractor may receive compensation for such delay, if appropriate. The Contract Administrator shall determine the time period covered by the delay and the amount of compensation payable to the Contractor.
- 4.9 When necessary to accommodate the Company's operating requirements, the Company shall have the option to order any portion of the Project performed at times other than normal working hours or on weekends or holidays, in which event extra costs, if any, for such work shall be paid to the Contractor in accordance with Section 14.5.

## **5.0 PERMITS AND LICENSES**

- 5.1 Permits and licenses of a temporary nature necessary for the prosecution of the Work shall be secured and paid for by the Contractor. Unless otherwise specified, permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Company. In either case the Contractor shall be responsible for prosecuting the Work in accordance with the provisions of all applicable permits and licenses.
- 5.2 The Contractor shall maintain all permits and licenses required and necessary to complete the Work so that it complies with all applicable laws, rules, regulations, requirements, orders, directives, ordinances, codes and standards of all Federal, state, and local governmental agencies having jurisdiction over the Company and its Affiliates, the Contractor, the Subcontractors, or the Project, whether the same are in force at the execution of this Agreement or may in the future be passed, enacted or directed.
- 5.3 The Contractor shall not enter into negotiations with any governmental authority or agency for acceptance of variations from or revisions to safety or health, or air, water or noise pollution laws or regulations relating to the Agreement or to the performance thereof, without the Company's prior written consent.

## **6.0 SHIPMENT**

- 6.1 The Contractor shall bear all costs of transportation and shipment unless otherwise expressly provided in the Specification.

## **7.0 RISK OF LOSS**

- 7.1 Risk of loss or damage to the Work shall remain with the Contractor until Final Acceptance by the Company, regardless of whether title has passed. The Contractor shall bear the risk of loss or damage to any Work during its repair, replacement, or cure if the Contractor is responsible for such repair, replacement or cure.
- 7.2 The Contractor shall be solely responsible for storage and protection of equipment and material (whether furnished by the Company or the Contractor) against deterioration or damage from any cause, vandalism, and theft until Final Acceptance.

- 7.3 The Contractor shall be responsible for the security of all materials and equipment under its custody and control.
- 7.4 The Contractor shall at all times conduct operations in a manner to ensure the safety of the general public and to avoid the risk of loss, theft, or damage by vandalism, sabotage, or any other means.

## **8.0 WARRANTY/REMEDY**

- 8.1 The Contractor warrants that it is aware of the purpose for which the Work is being used and that its Work shall be suitable for such purpose. In addition to all other warranties, express or implied in fact or law, the Contractor warrants: 1) all Work shall conform to all requirements of the Agreement, including the Specification, and any Supplemental Conditions or change orders, if any; 2) if not otherwise specified, all Work shall be consistent with industry standards for the Services specified and the intended use by the Company; 3) all Services shall be performed by qualified, competent, and experienced personnel, and in accordance with the highest standards of care, skill, and diligence, and consistent with recognized and sound professional practices and procedures; 4) that all Work shall be free from defects in design, workmanship, and materials of any kind, for a period of twelve (12) months from the date placed in service or twenty-four (24) months from the date of receipt, whichever is later; 5) no Work shall infringe or violate the intellectual property rights of any third party, or violate any agreement or confidentiality obligation by which the Contractor may be bound; and 6) if any equipment is installed by Contractor in connection with the Services, all such equipment is installed to meet current OSHA regulations. Items of materials, equipment or otherwise shall not be substituted for those specified, nor shall "or equal" items be furnished pursuant to the Agreement without the Company's prior written approval. The Company's decision on item equality shall be final and binding.
- 8.2 If the Work provided by the Contractor or its Subcontractors fails to conform to the warranties set forth above, in addition to all other remedies available at law or equity, the Contractor shall, at its sole expense and at the Company's option, promptly: 1) re-perform the nonconforming Work; 2) refund the amount of money paid by the Company for such nonconforming Work; or 3) reimburse the Company for the cost of replacing, repairing, curing, or re-performing the nonconforming Work or having the nonconforming Work re-performed, cured, repaired, or replaced by a third party. The Company may require the Contractor to use overtime work at no cost to the Company if such additional effort will shorten the time the Work is nonconforming. All warranty Work performed by the Contractor shall be scheduled by and at times acceptable to the Company. If any warranty work is provided, the Contractor's warranties shall recommence upon the Company's acceptance of such repaired, re-performed, cured, or replaced Work and shall be in effect for the duration of the warranty period or for twenty-four (24) months after completion of the warranty work, whichever is later. The terms of this section shall survive termination of the Agreement and shall survive delivery, inspection, tests, acceptance, and use of the Work.
- 8.3 In addition to all remedies permitted by law, the Company reserves the right to reject and return to the Contractor for full credit and at the Contractor's expense, all Work that does not conform to the Company's specifications or requirements. Further, the Company may, at its option, and without limiting its other rights, cancel all or any unfilled part of the Agreement if conforming performance of the Work are not made within the time specified. The Company reserves the right to charge the Contractor, and the Contractor shall be liable for any loss or expense incurred as the result of the Contractor's failure to make timely performance of the Work. The acceptance of any late performance of the Work shall not constitute waiver to reject subsequent performance not made as originally scheduled.
- 8.4 If there are Contractor personnel at a Company Site, in the event that the Company believes, in its sole judgment, that any of the Contractor's personnel are objectionable, the Company shall so notify the Contractor, whereupon the Contractor shall promptly investigate and take appropriate corrective action including, where requested by the Company, removal of such personnel and replacement with personnel acceptable to the Company. Whenever required by law, regulations, or code, or any applicable governmental approval, the Contractor shall employ only licensed and properly trained personnel in the performance of the Work. The Contractor and all Subcontractors shall have full responsibility for all

employees employed on or in connection with the Project and shall employ only such employees who shall cooperate with all other individuals working at the Site.

- 8.5 The Contractor represents that it has fully acquainted itself with, and has carefully examined all documents and conditions relevant to the Work and the Project to insure that they are sufficient to properly complete the Work; all relevant plans, surveys, measurements, dimensions, calculations, and estimates to be sure that they contain no errors or inaccuracies; the nature and location of the Work, the character of equipment, materials and facilities needed preliminary to and during the prosecution of the Work; the general and local conditions (including environmental conditions and labor relations); and all other matters which can in any way affect the Project and the Work and its cost under the Agreement. The Company assumes no responsibility whatsoever for ascertaining for the Contractor any facts which the Contractor could have ascertained for itself through such investigation. The Contractor shall notify its Subcontractors of the requirements of this Section 8.5. Lack of knowledge of any of the foregoing matters shall not constitute an excuse for delay or failure of performance under the Agreement, nor shall it justify any increase in the price as determined under the Agreement. The Contractor hereby represents that it has all information and documentation with respect to equipment, materials, facilities or any other matters which are or will be necessary to enable the Contractor to safely and reliably perform the Work. Except as is otherwise specified within the Agreement, all loss or damage to the Contractor arising out of its performance of the Work, whether due to the elements, unforeseen circumstances, or otherwise, shall be sustained and borne by the Contractor at its sole cost and expense.
- 8.6 The Contractor hereby acknowledges and agrees that the Company will only be responsible for providing such materials and services as are expressly indicated to be the Company's responsibility in the Specification, if any.
- 8.7 Instructions or explanations given by the Contract Administrator or the Company to the Contractor to complete, clarify or give proper effect to the Specifications, if any, will be deemed a part of the Specifications. If there is any doubt as to the meaning of any portion or portions of the Specifications, such documents will be interpreted as calling for the best quality, as to materials, equipment and workmanship capable of being supplied or applied, and any explanation provided by the Contract Administrator's will be final and conclusive.
- 8.8 The Contractor shall obtain from each Subcontractor, and extend to the Company for its benefit, warranties for all Work performed or supplied by such Subcontractor, substantially identical to the warranties the Contractor is required to provide hereunder. Any such warranties shall be in addition to and shall not be limited by or themselves limit, the warranties of the Contractor otherwise provided in the Agreement. The Contractor shall deliver to the Company copies of any Subcontractor's warranties.

## **9.0 PRICE/PAYMENT**

- 9.1 The Company will compensate the Contractor for Work provided on the basis of prices stated in the Agreement.
- 9.2 Standard payment terms are "2% 10, Net 30." The Company shall pay all invoices not more than 30 Days after receipt by Company's Accounts Payable Department of a proper invoice and any required supporting documentation, subject to the Company's right to contest, in good faith, all or any part of the charges set forth therein. Payment shall not relieve the Contractor from any responsibilities or obligations under the Agreement, nor shall the Company's payment constitute acceptance or a waiver of any claim arising hereunder. No payment made hereunder, except for the final payment, shall be considered as acceptance of any Work. All payments shall be subject to correction or adjustment in subsequent payments.
- 9.3 Company reserves the right to utilize a variety of payment channels, including but not limited to Virtual Card, ACH, Ghost Cards and P-Cards. Contractor agrees that it will not impose a surcharge on Company's payment. Contractor shall ensure that with respect to credit card acceptance, it is in compliance with applicable law, and the rules set forth by the respective credit card network. Where applicable, Contractor

shall provide Company with proof of its compliance with the Payment Card Industry Data Security Standard ("PCI DSS") and/or any related applicable requirements set forth by the PCI Security Standards Council (Ghost Cards only).

- 9.4 Contractor shall submit invoice(s) in accordance with the Agreement. Each invoice shall reference the Company's Purchase Order Number. Such invoice(s) shall include cost breakdowns and schedule of performance of Services as specified by the Company. In addition to the specific requirements for each payment, the Contractor's submittal of an invoice shall represent a certification by the Contractor that it has complied with all relevant terms of the Agreement, including, without limitation: a) the quality assurance requirements set forth in Section 11.0; b) all scheduling requirements set forth in Section 4.0; c) the safety requirements set forth in Section 16.0; and d) all environmental requirements set forth in Section 41.0.
- 9.5 The Company shall, without waiver or limitation of any rights or remedies, be entitled from time to time to deduct from any amounts due or owing the Contractor under the Agreement any and all amounts owed by the Contractor to the Company or a Company Affiliate, whether or not in connection with the Agreement.

## **10.0 TAXES**

- 10.1 The Contract Price shall include sales, use and similar taxes, unless otherwise provided for in the Agreement. The Company shall not be responsible for any Federal, state, and/or local, personal property, license, privilege, or other like taxes, which may now or hereafter be applicable to the transactions under the Agreement.
- 10.2 Contractor shall pay or cause to be paid all taxes and employer contributions imposed by present and future Federal, state, and local laws with respect to compensation of employees of the Contractor and all interest and penalties payable under such laws as a result of noncompliance therewith, and the Contractor shall indemnify and hold harmless the Indemnified Parties from and against any and all claims, liabilities and expenses with respect to the foregoing.
- 10.3 The Company self-assesses sales taxes. For taxable materials and/or services delivered within each state in which the Work is performed, the Contractor shall not include sales tax as per direct payment permit. For the application of sales tax when rendering an invoice, the Contractor shall obtain a permit and adhere to the policies set forth in the following web page:

[http://www2.nationalgridus.com/corpinfo/purchasing/payment\\_all\\_all.jsp](http://www2.nationalgridus.com/corpinfo/purchasing/payment_all_all.jsp)

## **11.0 INSPECTION AND QUALITY ASSURANCE**

- 11.1 The Contractor shall inspect all Work and make or cause to be made all tests required by the Agreement.
- 11.2 All Work will be subject to the Contract Administrator's inspection, direction, and approval. The Contractor agrees to furnish all the information pertaining to the Work as the Contract Administrator may require.
- 11.3 The Company shall have the right to inspect any Work covered by the Agreement and, at no cost to the Company, the right to inspect and/or audit any of the Contractor's or its Subcontractors' inspection records and associated costs pertaining to the Agreement. Such audits may be performed by either or both the Company's employees or professional auditing firms chosen by the Company. In the event the Work or associated costs are found to be deficient or not in accordance with the Agreement, the Company shall be entitled to seek reimbursement for such audit costs.

- 11.4 The Company shall advise the Contractor of errors, or variations from the requirements of the Agreement, and of defects in the Work, but it is expressly agreed that any omission on the Company's part to advise the Contractor of any such errors, variations, or defects or to provide any instructions or explanations shall not give the Contractor any right or claim against the Company, and shall not in any way relieve the Contractor from its obligation to provide the Work in accordance with the Agreement.
- 11.5 At any time during the term of the Agreement, the Company or its designated representative shall be entitled to: (1) conduct and/or witness any test required by the Agreement; (2) otherwise inspect, witness and/or test the Work; (3) review the Contractor's and Subcontractor's procedures and documents pertaining to inspection, testing or witnessing of tests; and (4) review the Contractor's and Subcontractor's documents pertaining to the Work. For such purposes the Company and its representatives shall be provided access to the Contractor's or Subcontractors' facilities or Work, when and in such manner as the Company may require. In the event the Contractor employs Subcontractors for any part of the Work, the Contractor shall require Subcontractors to comply with the provisions of this Section 11.5.
- 11.6 The Contractor shall provide and maintain an examination, inspection and testing system acceptable to the Company as required by the Agreement. The Contractor shall submit to the Company the results of all such examinations, tests and inspections and shall maintain records of the same and make them available to the Company.
- 11.7 In addition to any notice requirements otherwise set forth in the Agreement, the Contractor shall give the Company (a) five days prior written notice of any tests and inspections required by the Agreement, the Company or its representatives' instructions, laws, regulations or ordinances to be witnessed or approved by the Company, (b) timely notice of all other tests and inspections, and (c) 48 hours additional notice prior to actual performance of any test or inspection. Inspections by the Company shall be made promptly, and where practicable at the source of supply.
- 11.8 All testing and inspections required under the Agreement shall be done in accordance with the Agreement. The Company may perform technical inspection of the Work as may be set forth more fully in the Specification. The Contract Administrator shall have authority to reject all Work and materials which do not conform to the Agreement and respond to questions which arise in the execution of the Work.
- 11.9 Neither the Company's nor its representative's inspection or testing, or witnessing of tests or inspections of the Work nor its failure to perform, require or approve tests or inspections shall (1) affect the warranties and guarantees of the Contractor, (2) relieve the Contractor from any responsibility or liability with respect to workmanship, materials or equipment, (3) constitute an acceptance of the Work by the Company or an agreement by the Company that the Work meets specified requirements, (4) impair the Company's right to reject nonconforming or defective Work, (5) constitute a waiver by the Company of any rights under the Agreement, or (6) relieve the Contractor of any of its obligations under the Agreement, notwithstanding the Company's opportunity to inspect the Work, the Company's knowledge of the nonconformance or defect, or the Company's failure to earlier reject the Work.
- 11.10 The Company shall have the right to inspect all materials, supplies, and equipment that are to be incorporated in the Project and make or cause to be made all tests required by the Agreement. The making of such inspections and tests by the Company shall not relieve the Contractor of its responsibility for inspection and testing.
- 11.11 If the Company determines that any Work has not satisfactorily passed any test or inspection or does not meet the requirements of the Agreement or that the Contractor has not conducted or has improperly conducted any required test or inspection, the Company shall have the right, in addition to any other rights set forth in the Agreement, to (1) reject the Work and (2) stop the Work in accordance with Section 18.1.

## **12.0 FINAL INSPECTION/ACCEPTANCE/PAYMENT**

- 12.1 Upon receipt of written notice from the Contractor that the Work is completed and ready for final inspection and acceptance, the Company shall inspect the Work and determine if the Work has been fully performed in accordance with the terms and conditions of the Agreement.
- 12.2 If the Company determines the Work is not complete, its written notice of rejection shall include a list of items that the Contractor shall finish in order for the Work to be complete under the terms and conditions of the Agreement. The Contractor shall within two Days of such notice provide for the Company's review and approval a schedule detailing when all defects will be corrected and/or the Work completed. Upon approval by the Company, the Contractor shall remedy such defective and incomplete portions of the Work. The steps in Sections 12.1 and this Section 12.2 shall be repeated until the Company accepts the Work as complete and so notifies the Contractor of its acceptance.
- 12.3 Upon Final Acceptance, final payment will be made.
- 12.4 Acceptance of the final payment shall constitute a waiver of all claims by the Contractor.
- 12.5 Final payment shall not relieve the Contractor of any warranty, guarantee or other continuing obligations under the Agreement.

## **13.0 WITHHOLDING PAYMENT**

- 13.1 The Company may withhold payment, in whole or in part, to the extent and for the time reasonably necessary, in the Company's sole judgment and discretion, to protect the Company from loss caused by, but not limited to:
  - 13.1.1 Defective Work not remedied;
  - 13.1.2 Claims filed or reasonable evidence indicating probable filing of claims against the Company or by the Company or other parties against the Contractor;
  - 13.1.3 Failure of the Contractor or Subcontractors (of any tier) to make payments properly to Subcontractors (of any tier) or for material or labor or for any taxes due;
  - 13.1.4 Damage to another contractor;
  - 13.1.5 Removal and replacement of condemned Work and/or material;
  - 13.1.6 Incomplete documentation;
  - 13.1.7 Inadequate insurance coverage;
  - 13.1.8 Disputed Work;
  - 13.1.9 Environmental damage caused by or exacerbated by Contractor or any Subcontractor;
  - 13.1.10 Bonding of a Contractor lien
  - 13.1.11 Failure of the Contractor or any Subcontractor to properly clean up the Site;
  - 13.1.12 Damage to utilities caused by Contractor or any Subcontractor;
  - 13.1.13 Damage to public or private property caused by Contractor or any Subcontractor; and
  - 13.1.14 Liquidated damages assessed to the Contractor.
- 13.2 When the above grounds are removed or the Contractor provides a surety bond satisfactory to the Company which protects the Company in the amount withheld, payment shall be made within 30 Days thereafter to the Contractor for the amount withheld.



- 13.3 In addition to the right to delay payment as set forth above, the Company shall have the right to require that the Contractor shall, in any event, take all necessary steps, at its sole cost and expense, to cause any lien filed against the Company's or its Affiliates' property to be satisfied on the record within ten days from the Company's notice that such lien has been filed.

#### **14.0 CHANGES TO WORK SCOPE/AGREEMENT CHANGES**

- 14.1 No additions to, deletions from, or alterations in the Work and no amendment or repeal of, and no substitution for any terms, conditions, provisions or requirements of the Agreement shall be made unless first authorized in writing by the Company. No oral changes in the Agreement shall be recognized by the Company unless in accordance with Section 26.2.
- 14.2 The Company may at any time make additions to or deletions from or changes in the Project and/or Work, including changes to the Specification or the schedule. If a Company-directed change will add to or deduct from the Contractor's cost of the Work or affect the schedule, the Contractor shall notify the Company in writing within five Days of receipt of such Company-directed change and provide a written estimate of such cost and/or schedule modifications and, if the Company approves, the Agreement will be adjusted accordingly. Any claim for an extension in the schedule caused thereby shall be adjusted at the time of directing such change and the value of any such change shall be determined as provided in Section 14.5.
- 14.3 If the Contractor desires a change in the Work necessary to complete the Work or believes that any order, instruction, request, clarification or interpretation of the Company, or its representatives or compliance with any laws, orders or regulations, constitutes a substantial change in the Work, the Contractor shall submit, to the Company, prior to performance of any such Work, and within five Days of receipt or discovery thereof, a written claim specifying the nature of the change, any increase or decrease in the cost of performing the Work, and any resulting change in the schedule. Within 30 Days of receipt of such notice, the Company shall determine whether the claim constitutes a change in the Work and if so to what extent the Agreement should be modified. The Company shall then notify the Contractor, in writing, of its decision. Any change in the schedule shall be specified in the Company's notice and any change in price as determined under the Agreement shall be determined in accordance with Section 14.5.
- 14.4 The Company may require the Contractor to proceed with Work that is the subject of a proposed or claimed change in the Work prior to the Company's consent to any change in the price or schedule, in which event the Company shall so notify the Contractor in writing, and the Contractor shall then proceed with the Work, and keep an accurate account of such, and the Contractor and the Company shall then negotiate in good faith with respect to such change.
- 14.5 If the Company authorizes a change in the Work as set forth in this Section 14.0 which adds to or decreases the cost of the Work, the Contractor shall proceed with the Work as changed, and the Company shall, in its sole discretion, adjust the price by (a) a mutually agreed upon lump sum or rate price, (b) a rate price as set forth in the Agreement or, (c) in accordance with the following:
- 14.5.1 Reimbursement for all Subcontractors, subject to the Company's prior authorization to subcontract in each specific instance of change, based on costs actually and reasonably incurred in performing changes. Applicable Subcontractor costs shall be subject to the same terms and conditions set forth in Section 14.5, unless otherwise agreed to by the Company; and
- 14.5.2 Reimbursement for the actual verifiable net (no mark-ups) cost of materials directly purchased in support of the extra Work as authorized by the Company.
- 14.6 If the Company authorizes a change in the Work which decreases the amount and cost of the Work, such decrease shall not constitute basis for a claim by the Contractor for any loss or damages including anticipated profit.

- 14.7 The Company shall not accept any changes submitted by the Contractor pursuant to this Section 14.0 after final payment.
- 14.8 All additional work shall be performed in accordance with the terms and conditions of the Agreement insofar as they are applicable thereto.

## **15.0 SURVIVAL**

- 15.1 All provisions related to warranty, indemnification, confidentiality and proprietary rights shall expressly survive termination or expiration of the Agreement.

## **16.0 SAFETY**

- 16.1 The Contractor shall be solely responsible and assume all liability for the safety and supervision of its employees and other persons engaged in the Work or on the Site. The Contractor shall establish and effectively and continuously implement a safety program. The Contractor shall, and shall require its Subcontractors and their employees to comply with all applicable Federal, state and local safety directives, requirements, rules, regulations, laws and ordinances, whether the same are in force upon the execution of the Agreement or may in the future be passed, enacted or directed, including without limitation, compliance with the safety regulations and standards adopted under the Occupational Safety and Health Act of 1970 (OSHA), as amended from time to time. The Contractor shall continually inspect the Project and supervise its personnel to determine and enforce compliance with the above provisions.
- 16.2 The Contractor shall, and shall require its Subcontractors and their employees to comply with the Company's Safety Requirements and all established Project safety rules as they may be amended from time to time and to take all necessary safety and other precautions to protect property and persons from damage or injury arising out of performance on the Project, whether the same are in force at the execution of this Agreement or may in the future be passed, enacted or directed.
- 16.3 The Contractor shall provide adequate safeguards, safety devices and protective equipment and enforce their use and take any other needed actions to protect the life, health and safety of the public and to protect property in connection with its performance on the Project.

## **17.0 MINIMIZING DISRUPTIONS**

- 17.1 Work shall be performed in a manner which minimizes to the greatest extent possible any disruption to the surrounding landscapes, waterways, communities and the general public.

## **18.0 TERM/TERMINATION**

- 18.1 Termination for Cause.
- 18.1.1 If, during the term of the Agreement, the Company notifies the Contractor that any part of the Work is defective or deficient or not in accordance with any provision of the Agreement, regardless of the stage of its completion or the time or place of discovery of such errors and regardless of whether the Company has previously accepted it, the Company may order the Contractor to stop performing the Work until such defect or default has been corrected at the Contractor's sole expense. If the Contractor does not correct the default or defect within ten Days of notice, the Company may suspend its performance until such defect or default is corrected, and/or removed and replaced at the Contractor's expense.

- 18.1.2 Contractor shall, at its sole expense, promptly replace and re-execute the defective or deficient Work in accordance with the Agreement.
- 18.1.3 If the Company corrects Work or has Work corrected that has been damaged or that was not done in accordance with the Agreement, the Company may deduct the cost from the price as determined under the Agreement, or invoice the Contractor for such costs, at its sole option. If the Company elects to invoice the Contractor, the Contractor shall remit to the Company such invoiced amount within 30 Days of the date of the invoice.
- 18.1.4 The Contractor shall not be entitled to an extension of time by reason of the Work being found defective, deficient or in any way not in accordance with the requirements of the Agreement.
- 18.1.5 Notwithstanding any other provision of the Agreement, if the Contractor: (1) fails to prosecute the Work with diligence or has fallen behind the schedule and if in the opinion of the Company, fails to take all necessary steps to remedy the Contractor's failure to comply with the terms of the schedule; (2) fails to make prompt payment when due to Subcontractors; (3) fails to comply with any of the terms or conditions of the Agreement; (4) sells or transfers all or substantially all of its assets without the Company's prior written consent; (5) enters into any voluntary or involuntary bankruptcy proceeding or receivership; (6) makes a general assignment for the benefit of its creditors; (7) experiences a labor dispute which threatens adversely to affect the progress or cost of the Project hereunder or the Company's operation; (8) abandons the Work; (9) loses control of the Work from any cause; (10) refuses or neglects to provide sufficient and properly skilled or other labor or sufficient materials of proper quality; or (11) directly or indirectly causes a disruption of the Project, or should its presence result in a disruption of the Project or the Company's operation, then the Company shall have the right, without prejudice to any other right or remedy to terminate the Agreement, in whole or part. Such termination shall be effective upon written notice to the Contractor setting forth (a) the date of the termination and (b) that the Contractor shall immediately discontinue the Work to the extent specified in such notice. The Company may exercise its right of partial termination under the Agreement any number of times.
- 18.1.6 In the event the Company terminates all or any part of the Agreement for cause, the Company may finish the Work or have the Work finished by a third party by whatever method it may deem expedient. The Company shall not be required to obtain the lowest price for completion of the Work, but may make such reasonable expenditures as may best accomplish such completion; and the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price as determined under the Agreement exceeds the expense of finishing the Work, including compensation for additional managerial and administrative services and all other costs and expenses actually incurred by the Company as a direct result of the breach and termination, the Contractor hereby waives such excess. If such expenses exceed the unpaid balance, the Contractor shall pay the difference to the Company within 30 Days of the Company's notice thereof to the Contractor.
- 18.1.7 If all or any part of the Agreement is terminated for cause, the Company shall be entitled, at its option, to (a) retain any Work previously delivered to the Project or paid for by the Company, (b) require delivery of any Work and/or documents, regardless of their stage of completion which are in the Contractor's possession or control, (c) require the Contractor to assign to the Company all or any of the Contractor's rights with respect to orders or subcontracts which relate to the Project, (d) reject all or any of the Work, regardless of whether it has been delivered for the Project, (e) require the Contractor to cooperate with a new contractor for the period of time necessary to familiarize the new contractor with the Project, (f) have another contractor complete the Agreement at the Contractor's expense, and (g) require completion according to the terms of the Agreement of any Work which has not been terminated Contractor shall be required to refund to the Company any payments theretofore made for rejected Work. The Company shall be entitled to withhold from any payment otherwise due to the Contractor an amount sufficient to protect the Company from any outstanding or anticipated liens or claims in connection with Work which has not been rejected or anticipated costs to complete the Work in excess of the remaining Contract Price. The Company shall not be liable for any loss or damage (including, but not limited to,

special, indirect, incidental, or consequential damages or anticipated profits) incurred by reason of termination for cause of the Agreement.

- 18.1.8 No amount shall be paid or payable by the Company for the Contractor's termination costs including, but not limited to, demobilization costs, costs associated with the transfer or termination of personnel, or loss of anticipated profit.
- 18.1.9 All warranties and guarantees, including without limitation those set forth in Section 8.0, shall survive termination of the Agreement to the extent that they relate to Work which has not been rejected or terminated, and any other provisions of the Agreement which survive the date of termination shall continue to be binding upon the Contractor.
- 18.1.10 In the event that a termination by the Company of all or part of the Agreement for cause, under Section 18.1 is determined to have been made without cause, such termination shall thereafter be treated as termination for convenience under Section 18.2.

18.2 Termination for Convenience.

- 18.2.1 Notwithstanding any other provision of the Agreement, the Company may, at its sole discretion, at any time, for any reason, by notice to the Contractor, terminate the Agreement in whole or in part without cause, and such termination shall not constitute a breach of contract. Such termination shall be effective upon the date set forth in the written notice and the Contractor, unless otherwise directed by the Company, shall immediately:
  - (a) Stop the Work hereunder on the date and to the extent specified in such notice;
  - (b) Place no further orders or subcontracts for any part of the Project other than for Work which has not been terminated;
  - (c) Terminate, as directed by the Company, all orders and subcontracts to the extent that they relate to Work which has been terminated;
  - (d) Settle, with the approval or ratification of the Company, to the extent the Company may require, all outstanding liabilities and claims arising out of the Contractor's termination of orders and subcontracts pursuant to Section 18.2;
  - (e) Assign to the Company, as required by the Company, any and all of the Contractor's rights with respect to orders or subcontracts which relate to terminated Work;
  - (f) Deliver to the Company, as required by the Company, any or all Work or documents, technical data or other information and materials regardless of their stage of completion, which are in the Contractor's possession or control;
  - (g) Use its best efforts to sell, transfer or otherwise dispose, for the Company's credit, in the manner, at the times, to the extent and at the prices directed or authorized by the Company, any or all of the Work, provided that the Contractor (a) shall not be required to extend credit to any buyer, and (b) may acquire any such Work upon the same terms as it would be entitled to sell or transfer such Work to a third party;
  - (h) Work with a new contractor for the period of time necessary to familiarize the new contractor with the Project;

- (i) Complete any Work which has not been terminated pursuant to such notice; and
- (j) Take whatever action may be necessary to preserve and protect the Work and to mitigate the Contractor's damages in connection with the partial or complete termination of the Agreement.

18.2.2 In no event shall the total of the Partial Performance Payment and/or termination costs (as provided in Section 18.2.6) exceed the price as determined under the Agreement.

18.2.3 The Contractor's claim for Partial Performance Payment and/or termination costs shall be contingent upon the Contractor's good faith diligent compliance with the provisions of Section 18.2, to the Company's satisfaction which will not be unreasonably withheld, and shall be submitted to the Company within three months of the effective date of termination for convenience. If such claim is not submitted within three months, the Contractor waives any right to the claim for Partial Performance Payment and/or termination costs.

18.2.4 All warranties and guarantees set forth in Section 8.0 shall survive termination of the Agreement to the extent that they relate to Work which has not been rejected or terminated, and any other provisions of the Agreement which survive the date of termination shall continue to be binding upon the Contractor.

18.2.5 A termination for convenience shall not entitle the Contractor to damage remedies that would normally arise as a result of breach of contract, whether such damage remedies are categorized as direct, special, indirect, incidental or consequential damages. Rather, the Contractor's rights are exclusively limited to Partial Performance Payment and/or termination costs.

18.2.6 In the case of termination for convenience of the Agreement, the Contractor's termination costs shall be limited to: (1) reasonable documented direct costs that are directly associated with termination responsibilities identified in Section 18.2; and (2) reasonable demobilization costs incurred within thirty days of the date of termination. In no case shall the Contractor be entitled to recover lost profits, nor to recover any costs and expenses associated with the inability of the Contractor to find work for idle employees and equipment that have been rendered idle as a result of termination of the Agreement.

18.3 In the case of termination of the Agreement, the Contractor, if notified to do so by the Company, shall promptly, but in any event no more than seven Days from the Company's request, remove any part or all of its equipment, material, and supplies, if any, from the Site, failing which the Company shall have the right to remove such equipment and supplies at the expense of the Contractor.

18.4 The Agreement shall become effective when executed by both parties and shall continue in full force and effect until the expiration of all guarantees, warranties and indemnities provided for therein, unless earlier terminated in accordance with Section 18.1 or 18.2.

## **19.0 COMPANY'S RIGHT TO SUSPEND THE AGREEMENT**

19.1 The Company may at its sole discretion interrupt, suspend or delay execution of all or any part of the Project for any reason whatsoever upon written notice to the Contractor specifying the nature and expected duration of the interruption, suspension or delay. The Company's notice of suspension shall designate the amount and type of labor and equipment to be committed to the Work, if any, during the period of suspension. The Contractor shall utilize its labor, equipment and any other resources so that costs are minimized during the suspension. Except as provided in Section 34.6, if, in the Contractor's opinion, such interruption would result in substantially increased cost, the Contractor shall promptly notify the Company in writing in accordance with Section 14.0.

- 19.2 Contractor shall immediately resume any of the Work so interrupted, suspended or delayed when directed to do so by the Company. Except as provided in Section 18.1.8, the schedule and price as determined under the Agreement shall be revised to compensate for the interruption, suspension or delay. Adjustments to the price shall be adequate to compensate the Contractor for any verifiable reasonable costs or expenses the Contractor actually incurs as a direct result of the interruption, suspension or delay despite reasonable efforts to mitigate such costs and expenses. Such adjustment to the price and schedule shall constitute full settlement to the Contractor for the suspension. In no event shall the total paid to the Contractor exceed the Contract Price as set forth in the Agreement. In no event shall the Contractor be entitled to any damages, including loss of anticipated profits.
- 19.3 In its notice of suspension, the Company will designate what Work, if any, is to be continued. Upon receipt of such notice, the Contractor shall, unless otherwise directed by the Company:
- 19.3.1 Immediately discontinue the Work on the date and to the extent specified in the notice;
  - 19.3.2 Place no further orders or subcontracts for or in connection with the Project other than to the extent required in the notice of suspension;
  - 19.3.3 Promptly make every reasonable effort to obtain suspension upon terms satisfactory to the Company of all orders and subcontracts to the extent required by the suspension; and
  - 19.3.4 Continue to protect and preserve the Project.
- 19.4 Notwithstanding any other provision of the Agreement, no compensation or extension of time will be granted to the Contractor for any suspension to the extent that the suspension is caused directly or indirectly by the Contractor's acts or failure to act, including, but not limited to, the Contractor's failure to comply with the safety and environmental protection provisions of the Agreement or to the extent that an equitable adjustment is provided for or excluded under any other provision of the Agreement.
- 19.5 Notwithstanding the foregoing, if the Work may directly affect the continuity of electrical or gas service, the Company, at its option, may from time to time immediately suspend the Contractor's Work without prior written notice in order to avoid problems such as safety hazards or interruption of service.

## **20.0 EMERGENCY ASSISTANCE**

- 20.1 If the Contractor is notified and requested to provide emergency assistance, by an entity other than the Company, the Contractor shall request a temporary release from the Agreement. It will be in the Company's discretion as to whether this request will be granted. If the Company agrees to temporarily authorize the release of the Contractor from its current obligations, both parties shall sign a temporary release document, indicating for whom the Contractor will be working and the anticipated release period. The temporary release document will include the Contractor warranties that the Company will not incur any costs or liabilities due to the Contractor's release and that the release will cause no significant delay in the completion of the Company's Project.

## **21.0 FORCE MAJEURE**

- 21.1 Any delay of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by unprecedented weather conditions, fire, explosion, riot, war, strike by the Company's or its Affiliates' employees, court injunction or order, federal and/or state law or regulation, or order by any federal or state regulatory agency, but only to the extent that: 1) such events are beyond the reasonable control of the party affected, 2) such events were unforeseeable by the affected party and the effects were beyond its reasonable efforts to prevent, avoid or mitigate, 3) the affected party uses every reasonable effort to prevent, avoid or mitigate the effects, 4) prompt written notice of such delay be given by such affected party to the other; and 5) the party affected uses its best efforts to remedy the resulting effects in the shortest practicable time. Upon receipt of such notice, if necessary, the time for performing the affected activities shall be extended for a period of time reasonably necessary to overcome the effect of such delays.

Such extension shall be the sole remedy and compensation for each *force majeure* event. Notwithstanding the foregoing, the Company shall have the right to terminate the Agreement under Section 18.2.

- 21.2 The written notice required under Section 21.1 shall be sent by the affected party within five Days of the commencement of any such delay and shall specify the nature, cause, date of commencement and anticipated extent of such delay or nonperformance and whether it anticipates that any delays in scheduled delivery or performance will result. Such notice shall be submitted in ample time to permit full investigation and evaluation of any claimed delay or nonperformance. Failure to provide such notice shall constitute a waiver of any claim.
- 21.3 Within 30 Days after the termination of any delay occasioned by an event of *force majeure*, the affected party shall give written notice to the other party specifying the actual duration and impact of the delay.
- 21.4 Notwithstanding the foregoing, neither the Contractor's inability to obtain required permits on schedule, nor strikes and/or labor disputes involving the Contractor's and its Subcontractors' employees shall be considered a *force majeure* event.
- 21.5 The Company shall extend the schedule for changes in the Project, as provided in Section 14.0, for *force majeure* events, as provided in Section 21.0, or for suspension of Work, as provided in Section 19.0. Unless pursuant to Sections 14.0 or 19.0, extensions of time shall not be a basis for any increased payment under the Agreement.
- 21.6 Contractor shall give the Company prompt written notice of any occurrence or conditions which in the Contractor's opinion entitle it to an extension of time. Such notice shall be submitted in ample time to permit full investigation and evaluation of the Contractor's claim. Failure to provide such notice shall constitute a waiver by the Contractor of any claim.

## **22.0 LIABILITY AND INDEMNIFICATION**

- 22.1 To the fullest extent allowed by law, the Contractor shall indemnify, defend, and save harmless the Indemnified Parties from any loss, damage, liability, cost, third party suit, charge, expense, or third party cause of action, including the Indemnified Parties' legal expenses, whether unconditionally certain or otherwise, as they exist on the effective date of the Agreement or arise at any time thereafter, (including but not limited to reasonable fees and disbursements of counsel incurred by an Indemnified Party in any action or proceeding between an Indemnified Party and any third party arising out of any damage or injury to property of an Indemnified Party, the Contractor and/or third parties (including real property, personal property and environmental damages), persons (including injuries resulting in death), or economic damages, directly or indirectly caused by or arising out of or in any way connected with (i) any act or omission of the Contractor in breach of the Agreement, (ii) any negligence, willful misconduct, or breach of law of the Contractor, its agents, employees, Subcontractors, and suppliers, (iii) any third-party claim under U.S. law pertaining to copyright infringement, trademark infringement, libel, slander, defamation, invasion of privacy, piracy, or plagiarism arising from the Company's use, consistent with the terms of the Agreement, of the final deliverables (except to the extent that such third-party claim arises from materials supplied by the Company, or any unauthorized modifications to the deliverables by the Company), (iv) any equipment, property or facilities used by the Contractor, its agents, employees, Subcontractors, and suppliers, or (v) failure of the Contractor or its Subcontractors to comply with Laws and Standards. The Indemnified Parties shall not be indemnified or held harmless against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Indemnified Parties.
- 22.2 Contractor shall take prompt action to defend and indemnify the Indemnified Parties against claims, actual or threatened, but in no event later than notice by the Company to the Contractor of the service of a summons, complaint, petition or other service of process against the Company alleging damage, injury, liability, or expenses subject to the indemnification obligations set forth in Section 22.1. If such claim is subject to the foregoing indemnity obligation, the Contractor shall defend any such claim or threatened

claim, including as applicable, engagement of legal counsel, to respond to, defend, settle, or compromise any claim or threatened claim. The Contractor shall not settle any claim, action, suit or proceeding for which it is indemnifying the Company in a manner that would impose any legal liability or financial obligation on the Company without first obtaining the Company's written consent.

- 22.3 Furthermore, the Contractor understands that, in the event that it has breached its obligations under this Section 22.0, it is responsible for any and all reasonable costs and expenses incurred by the Company to enforce this indemnification provision.
- 22.4 If the Work, any intellectual property utilized by the Contractor in providing the Work, or the Company's use of the Work (each an "Infringing Element") becomes the subject of any claim, suit, or proceeding for infringement or other intellectual property right violation, the Contractor shall, at its sole expense and at the Company's option: 1) secure for the Company the right to its continued use, 2) replace the Infringing Element with a substantially equivalent, non-infringing item, or 3) modify the Infringing Element so that it is non-infringing.
- 22.5 The Company may participate in the defense and retain its own counsel in connection with any claim. If the Contractor fails to assume control of the defense of any claim, the Company may defend the claim at the Contractor's cost. The Company's defense of a claim does not relieve the Contractor from its obligations to indemnify.
- 22.6 The obligations under Section 22.0 shall not be limited in any way by any limitation on the Contractor's insurance or by a limitation on the amount or type of damages. In addition, the obligations under Section 22.0 shall not be limited in any way by any compensation or benefits payable by or for the Contractor or any Subcontractor under worker's compensation acts, disability benefit acts or other employee acts.
- 22.7 Royalties and fees for patents covering materials, articles, apparatus, devices, equipment or processes used in the Work shall be included in the Contract Price. The Contractor shall satisfy all demands that may be made at any time for such royalties or fees.
- 22.8 Contractor shall obtain from its Subcontractors, for the Indemnified Parties' benefit, agreements substantially similar to those contained in this Section 22.0. Notwithstanding any other provision of the Agreement, this Section 22.0 shall survive the termination or expiration of the Agreement.

## 23.0 INSURANCE

- 23.1 Insurance Requirements. From the commencement of the provision of Services, through acceptance or longer where specified below, the Contractor shall provide and maintain at its own expense insurance policies issued by insurance companies with an AM Best rating of B+ or better which meet or exceed the requirements listed herein:
- 23.1.1 Workers' Compensation and Employers' Liability Insurance as required by the applicable law. Coverage shall include the U.S. Longshoremen's and Harbor Workers' Compensation Act and the Jones Act (if the provision of the Services requires it);
- 23.1.2 Commercial General Liability (CGL) Insurance, covering all operations to be performed under the Agreement, with minimum limits of:

Combined Single Limit	\$1,000,000 per occurrence
General Aggregate and Product Aggregate	\$2,000,000



This policy shall include Contractual Liability and Products-Completed Operations coverage. If the Products-Completed Operations coverage is written on a claims-made basis, coverage shall be maintained continuously for at least two (2) years after acceptance of work completed in accordance with the Company.

- 23.1.3 Automobile Liability, covering all owned, non-owned and hired vehicles used in connection with the provisions of the Services with minimum limits of:
- |                       |                            |
|-----------------------|----------------------------|
| Combined Single Limit | \$1,000,000 per occurrence |
|-----------------------|----------------------------|
- 23.1.4 Watercraft Liability, if the provision of the Services requires the use of watercraft, with the same minimum limits of liability as outlined in Section 23.1.2.
- 23.1.5 Aircraft Liability, if the provision of the Services requires the use of aircraft, with a limit of liability of not less than \$10,000,000 combined single limit.
- 23.1.6 Professional Liability coverage, if professional services are required, with a limit of liability of the greater of \$1,000,000 or the value of the Purchase Order.
- 23.1.7 Other insurance as required and as mutually agreed upon by the Company and the Contractor.
- 23.1.8 Self-Insurance: Proof of qualification as a qualified self-insurer, if approved in advance in writing by the Company, will be acceptable in lieu of securing and maintaining one or more of the coverages required in this Section 23.0.
- 23.1.9 **National Grid USA its direct and indirect parents subsidiaries and affiliates shall be named as Additional Insured** on the Commercial General Liability and Automobile Liability policies. Contractor shall waive all rights of recovery against the Insured Parties for any loss or damage covered under those policies referenced in this Section 23.1 or for any required coverage that may be self-insured by the Contractor.
- 23.2 Subcontractors. In the event that the Contractor uses subcontractors in connection with the provision of the Services, the Contractor shall require all such subcontractors provide the same insurance coverages as shown in Sections 23.1.1, 23.1.2, and 23.1.3.
- 23.3 Certificate(s) of Insurance. Prior to providing the Services, Contractor shall promptly provide the Company with Certificate(s) of Insurance for all coverages required in the Agreement at the address National Grid USA, Attention Risk & Insurance Department, 300 Erie Blvd West, A-4, Syracuse, NY 13202. Policies shall provide that at least 30 days prior written notice shall be given to the Company in the event of any cancellation or diminution of coverage and certificates shall outline the amount of deductibles or self-insured retentions which shall be for the account of the Contractor. Such deductibles or self-insured retentions shall not exceed \$100,000 unless agreed to by the Company's Risk & Insurance Department.
- 23.4 Reservation of Rights. If any policy should be canceled before final payment by the Company to the Contractor and the Contractor fails immediately to procure other insurance as specified, the Company reserves the right to procure such insurance and to deduct the cost thereof from any sum due the Contractor under the Agreement or to invoice the Contractor.
- 23.5 Accident Reports. The Contractor shall furnish the Company's Risk & Insurance Department with copies of any accident report(s) sent to the Contractor's insurance carriers covering accidents, incidents or events occurring in connection with or as a result of the provision of the Services.

- 23.6 Full Policy Limits. The Contractor represents that it has full policy limits available and shall notify the Company's Risk & Insurance Department in writing when coverages required herein have been reduced as a result of claim payments, expenses, or both.
- 23.7 Indemnification Coordination. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from its work under the Agreement, or limiting, diminishing, or waiving the Contractor's obligation to indemnify, defend and save harmless the Company and the Indemnified Parties in accordance with these Terms and Conditions.
- 23.8 Compliance. These requirements are in addition to any other insurance requirements which may be required elsewhere in the Agreement. The Contractor shall comply with any governmental and/or site specific insurance requirements even if not stated herein.

## **24.0 RIGHTS, CLAIMS AND DISPUTES**

- 24.1 Any claim which the Contractor may have against the Company arising out of the Work shall be presented in writing to the Company no later than 30 days after the first occurrence of the circumstance which gave rise to the claim. The claim shall contain a concise statement of the question or dispute and the relevant facts and data (including the applicable Agreement provision) which support the claim. The Contractor shall furnish any additional information which the Company may require to enable it to evaluate and decide the claim.
- 24.2 Failure to submit any claim in such 30-day period shall constitute a waiver on the Contractor's part for entitlement to either additional reimbursement or additional time for performance under the Agreement.
- 24.3 Any dispute between the Company and the Contractor with respect to the Agreement that cannot be resolved in the normal course by the respective representatives of the Parties, shall be referred to the responsible officers of the Company and the Contractor for resolution. Notwithstanding the existence of a dispute, the Company shall be obligated to maintain payments not in dispute to the Contractor and the Contractor shall be obligated to proceed (or to continue) with the provision of Services unless otherwise directed by the Company.

## **25.0 RIGHTS AND REMEDIES; COMPANY LIABILITY**

- 25.1 The rights and remedies of the Company herein shall not be exclusive and are in addition to any other rights or remedies provided by law or equity.
- 25.2 The Company shall in no event be liable to the Contractor for any incidental, consequential, special, contingent, multiple, or punitive damages in connection with the Agreement, including, without limitation, loss of profits, attorney's fees, or litigation costs for any actions undertaken in connection with or related to the Agreement, including without limitation damage claims based on causes of action for breach of contract, tort (including negligence), Massachusetts Chapter 93A (Regulation of Business Practices for Consumers Protection), or any other theory of recovery.
- 25.3 In no case shall the Company's liability to the Contractor exceed the price for Work as determined under the Agreement.

## **26.0 DISCREPANCIES AND CLAIMS**

- 26.1 If the Contractor, in the course of the Work, finds any discrepancy between the Agreement, or what could have been reasonably inferred or interpreted therefrom, or any errors or omissions in the Agreement, or if the Contractor believes, determines or observes that performance of any part of the Project as required by

the Agreement would or might result in the Project being deficient or unsafe or failing to comply with standard practice, law or regulation, the Contractor shall immediately notify the Contract Administrator in writing and shall suspend that part of the Work until otherwise directed by the Company. Any Work done after such discovery or after the Contractor should have been reasonably expected to make such discovery, until authorized by the Company, shall be done at the Contractor's risk, and the Contractor shall be liable for all costs arising therefrom, unless otherwise authorized in writing by the Company.

- 26.2 Except in an emergency endangering life or property, if the Contractor claims that any instructions, written or oral, or other media issued after the date of the Agreement involve extra cost and/or an extension of time, it shall give the Company written notice thereof as set forth in Section 14.3. No such claim shall be valid unless so made.

## **27.0 DOCUMENTS/INTELLECTUAL PROPERTY**

- 27.1 Contractor shall supply all documents in quantities and types, at times, according to instructions, and in the manner set forth in the Agreement. Upon the Company's request, any other documents prepared by the Contractor in connection with the Project shall be delivered to the Company upon completion, cancellation or termination of the Agreement. Any document, which is prepared by the Contractor in connection with the Agreement, shall be submitted in accordance with the Agreement, with sufficient time for the Company to review and comment.
- 27.2 The Company's review of or comments on any document shall not relieve the Contractor of its sole responsibility for the correctness and adequacy of the Contractor's Work, including but not limited to the correctness of design, detail, dimensions, or performance of any other obligation of the Contractor hereunder.
- 27.3 All documents furnished by the Company, including but not limited to the Specification, if any, and copies thereof and documents produced by the Contractor for the Company shall be the property of the Company, shall be used by the Contractor only for performance of the Project, shall not be used on any other jobs, shall not be delivered to any third parties except as is necessary for performance of the Project hereunder, and shall be returned to the Company upon completion, cancellation or termination of the Agreement.
- 27.4 The contract documents including, but not limited to, the Specification, if any, may not be complete in every detail. The Contractor shall comply with their manifest intent and general purpose, taken as a whole, and shall not ignore or misuse any errors or omissions therein to the detriment of the Project. Should any error, omission, conflict or discrepancy appear in the contract documents, referenced documents, or codes, standards or instructions, the Contractor shall immediately notify the Company in writing and the Company shall issue written instructions; however, unless otherwise instructed, the more stringent requirement shall apply. If the Contractor proceeds with any of the Work in question prior to receiving such instructions, then required corrections shall be at the Contractor's expense.
- 27.5 If the Contractor observes that any requirement specified in the Agreement is at variance with any governing laws, ordinances, rules, regulations, permits or licenses, it shall promptly notify the Company in writing before incurring any further liability, expense or obligation for the Contractor or the Company.
- 27.6 All documents prepared, procured, or developed by the Contractor and furnished to the Company in connection with the Project shall be the property of the Company and may be used by the Company without restriction, whether during the term of the Agreement or thereafter.
- 27.7 Any and all works, expressions, inventions, ideas, discoveries, improvements or developments (whether or not patentable), as well as all copyrights, patents, or trademarks thereof, that may be conceived or made by the Contractor or Contractor's partner(s), employee(s), agent(s), vendor(s), contractor(s), supplier(s) or any other party employed by Contractor, or subcontractor to Contractor of any tier, to satisfy its obligation under the Agreement shall be work made for hire and shall be deemed the property of Company. All such

works, expressions, inventions, ideas, discoveries, improvements or developments, as well as all copyrightable expressions thereof, shall be deemed to fit into one or more of the specifically enumerated categories of works contained in 17 U.S.C. Section 101 *et sea*, and any subsequent revisions thereof. The Contractor and/or Contractor's partner(s), employee(s), agent(s), vendor(s), contractor(s), supplier(s), or any other party employed by Contractor, or subcontractor to Contractor of any tier, to satisfy its obligation under the Agreement shall promptly furnish Company with complete information, including, without limitation, a written description thereof giving the date of the work, invention or expression and naming the inventors or authors and others involved in the development or writing of the work, invention or expression. Company shall have the sole power to determine whether or not and in which countries and jurisdictions patent application shall be filed or copyrights registered and to determine the disposition of title to and rights in any works, expressions, inventions, ideas, discoveries, improvements or developments and in any United States and foreign patent applications, patents or copyrights that may result. Memoranda, notes and experimental works, descriptions, diagrams and other data generated in performance of the Work pertaining to any and all works, expressions, inventions, ideas, discoveries, improvements and developments covered by the Agreement shall be available at reasonable times to Company. The Contractor shall assist Company in the implementation of this section by obtaining and providing detailed written descriptions of each invention, idea, discovery or expression sufficient for filing patent or copyright applications, by providing an evaluation of the patentability or copyrightability of each disclosure, by assisting Company in the prosecution of patent and copyright applications, and by executing or having executed by appropriate persons any and all documents which may be necessary or desirable to cause title in such inventions, ideas, discoveries, or expressions to vest with Company. The cost of such assistance shall be considered separate and distinct and shall be mutually agreed upon between the Company and Contractor.

## **28.0 CONFIDENTIALITY/PROPRIETARY INFORMATION**

- 28.1 The Contractor hereby acknowledges that during the course of the Contractor's participation in a bid and/or selection process and in the performance of the requirements of the Agreement, the Contractor may be furnished with or exposed to information that is proprietary and confidential to the Company and/or its Affiliates ("Confidential Information"). The Party disclosing such Confidential Information is referred to herein as the "Disclosing Party" and the Party receiving such Confidential Information is referred to herein as the "Receiving Party." Confidential Information shall include but shall not be limited to information concerning pricing, terms and conditions, customers, employees, facility locations, techniques, methods, computer programs, software, drawings, maps, plans, and data relating to the Company and/or its Affiliates.
- 28.2 The Contractor agrees that (a) the Contractor shall use such Confidential Information only in connection with its participation in a bid and/or selection process or the requirements performed under the Agreement, and (b) shall not disclose such Confidential Information to third parties or use such Confidential Information for any other purpose without the prior written consent of an authorized representative of the Company.
- 28.3 The Contractor may disclose Confidential Information to its partner(s), employee(s), agent(s), vendor(s), contractor(s), Subcontractor(s), or any other party employed by the Contractor if and only if 1) such disclosure is necessary in order to perform the Work and/or Service under the Agreement; and 2) the party to whom the Confidential Information will be disclosed has executed and delivered to the Company a Non-Disclosure Agreement. If the Contractor has any question about whether information is Confidential Information, it shall contact the Company prior to disclosing such information for a determination as to its proprietary status.
- 28.4 Upon termination of the Agreement, the Contractor shall immediately return such Confidential Information, including without limitation any drawings, maps, or electronic data or copies thereof, to the Company.
- 28.5 Both Parties acknowledge that the breach of the Contractor's obligations under this provision will result in irreparable harm to the Company and/or its Affiliates. Any breach of these provisions by the Contractor

shall entitle the Company and/or its Affiliates to make use of any and all available remedies, at law and in equity, including, but not limited to, injunctive relief.

- 28.6 If either Party is required by law to disclose Confidential Information of the other Party (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demands, regulation, statute or otherwise), the Party required to make such disclosure will, when permitted by law, (i) notify the other Party and provide the other Party the opportunity to review the Confidential Information, and (ii) provide the other Party the opportunity to seek a protective order or other appropriate remedy. In the event that a protective order or other remedy is not obtained or is not pursued within a reasonable period of time, the Party required to make disclosure or such Party's representatives will furnish only that portion of the Confidential Information that it is legally required to disclose and the Party required to make disclosure will request that confidential treatment be accorded to the Confidential Information by relevant third parties.
- 28.7 Notwithstanding anything to the contrary in this Section 28.0, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through disclosure by the Receiving Party; (ii) is independently developed by the Receiving Party; or (iii) becomes available to the Receiving Party without restriction from a third party, provided that such third party is not bound by a confidentiality agreement with the Disclosing Party or its representatives.
- 28.8 In no event shall data or information provided by the Contractor under the Agreement or generated as a result of performance of the Work thereunder be deemed as proprietary to the Contractor. Likewise, reports generated as a result of performance of the Work thereunder shall not be proprietary to the Contractor.
- 28.9 The obligations set forth in this Section 28.0 shall survive expiration or termination of this Agreement for a period of five (5) years.

## **29.0 PUBLICITY**

- 29.1 Notwithstanding any other provision of the Agreement, the Contractor shall not, without the Company's prior written consent, publish any information pertaining to the Agreement, whether during the term of the Agreement or thereafter.
- 29.2 Contractor shall not display any sign, posters or other advertising matter in or around the Site without prior written approval of the Company.

## **30.0 COMMUNICATIONS WITH REGULATORS, MEDIA, OR PUBLIC**

- 30.1 The Contractor shall immediately notify the Company of all communications from regulatory agencies including, but not limited to, notices, postings, letters, telephone calls or visits. If a Notice of Noncompliance or any other official correspondence is received by the Contractor from a regulatory agency, a copy of the notice or correspondence shall be provided to the Company within 24 hours of its receipt.
- 30.2 The Contractor shall immediately notify the Company of any inquiries from the media. Requests for information from the media shall be reviewed and approved by the Company prior to response by the Contractor.
- 30.3 The Contractor shall immediately notify the Company of any calls or other communications from the public. Requests for information from the public shall be reviewed and approved by the Company prior to response by the Contractor.

### **31.0 MEETINGS AND REPORTS**

- 31.1 The Contractor shall attend Project meetings, if any, as often as deemed necessary by the Company during the term of the Agreement.
- 31.2 The Contractor shall submit to the Company specific reports as may be required elsewhere in the Agreement.

### **32.0 NERC CIP**

- 32.1 For any Work that requires access to the Physical Security Perimeter at a current control house as identified by the Company, or is in the process of constructing a new control house environment, the Contractor shall, and shall require its Subcontractors to (1) complete the contract document containing "National Grid Contractor Requirements for Compliance with NERC Cyber Security Standards," attached to this Agreement, and (2) comply with the terms and conditions and obligations of the Contractor with respect to NERC CIP. The Contractor shall be responsible hereunder for any breach of such terms and conditions and obligations of the Contractor with respect to NERC CIP under this Agreement to the extent caused by its Subcontractors.
- 32.2 In the event of non-compliance or breach on the part of Contractor, its employees, agents or subcontractors with or of any or all of the NERC Cyber Security Standards, the Contractor shall be solely liable for any and all resulting costs, losses, penalties, damages and liabilities, including any costs, losses, penalties, damages or liabilities incurred by the Company, and the Company may terminate this Agreement for cause, pursuant to the termination provisions contained herein.

### **33.0 CLEANING UP**

- 33.1 The Contractor shall at all times keep its work areas on Company Sites in a neat, clean, and safe condition in accordance with the Agreement.
- 33.2 Upon completion of the Work, the Contractor shall remove all excess material, equipment, temporary facilities and rubbish from Company Sites; shall repair or replace, in an acceptable manner, all property which may have been damaged or destroyed at a Company Site; and shall leave Company Sites in a neat and presentable condition and return disrupted or damaged areas to the condition existing before the start of the Work. Approval of clean-up of any Company Sites is required from the Company prior to Final Acceptance.
- 33.3 In the event of the Contractor's failure to comply with this Section 33.0, the Company shall be entitled to withhold from the Contractor, or obtain reimbursement from the Contractor for, any costs incurred in accomplishing the same.

### **34.0 LABOR RELATIONS**

- 34.1 The Contractor shall give the Company prompt written notice of any labor dispute or anticipated labor dispute which may reasonably be expected to affect: (1) the cost, schedule or performance of the Project; (2) other activities at the Site; or (3) the Company's ongoing operations.
- 34.2 The Contractor shall conduct its labor relations in accordance with its established labor agreements. The Contractor agrees to advise the Company, prior to making any new commitments, whether the negotiation of new agreements or understandings with local or national labor organizations affect the Work to be performed under the Agreement.

- 34.3 In addition to the Contractor's legal obligations under the Labor Management Relations Act, in the event the Contractor is a subscriber to a multi-employer bargaining association or group, the Contractor shall, if the Company so directs, participate to the fullest extent in the collective bargaining of that group with any of those labor organizations claiming jurisdiction over any portion of the Project under the Agreement or any subcontract.
- 34.4 To the extent applicable to Work being performed under the Agreement, the Contractor shall supply the Company with copies of all national agreements to which it is a party. No later than 30 Days before the expiration of any labor agreement which may affect the Project, the Contractor shall meet with the Company to discuss the appropriate course of action.
- 34.5 The Contractor shall take any and all steps that may be available in connection with the resolution of violations of collective bargaining agreements and jurisdictional disputes, including, without limitation, the filing of appropriate process with any court or administrative agency having jurisdiction to settle, enjoin or to award damages resulting from violations of collective bargaining agreements or jurisdictional disputes.
- 34.6 In the event of a labor dispute which threatens to adversely affect the progress or cost of the Project, the Company reserves the right to restrict additional hiring of employees by the Contractor or any Subcontractors, or to suspend or delay the Project, or in the Company's sole discretion to terminate the Agreement for cause under Section 18.1, without incurring contractual liability to the Contractor or its Subcontractors or suppliers. This section shall be applicable whether or not the Contractor or any Subcontractor is directly involved in such labor dispute and whether or not the dispute involves or affects employees or disputing parties standing in the proximate relation of employer and employee with the Contractor or Subcontractor.

## **35.0 ADDITIONAL CONTRACTS AND INTERESTS**

- 35.1 Whenever work being done by the Company's or by other contractors' forces is contiguous to Work covered by the Agreement, the respective rights of the various interests involved shall be established by the Company to secure the completion of the various portions of the Project in an orderly and timely manner. At no time shall the Contractor restrict the movement of other personnel and/or equipment in the performance of their work.
- 35.2 The Contractor shall be responsible for promptly notifying the Company in the event that it shall be necessary to coordinate work between the Contractor and others.
- 35.3 The Company reserves the right to enter into other contracts related to the Agreement or the Project and may require any other contractor, including the Company or its Affiliates, to provide labor or materials to the Project, and such other contracts shall not be cause for the Contractor to claim a change in the Project under Section 14.0. The Contractor shall afford other contractors, the Company or its Affiliates reasonable opportunity for the introduction and storage of their materials and the execution of their work, and the Contractor shall cooperate with the Company, its Affiliates and any other contractors in coordinating their activities.
- 35.4 The Contractor acknowledges that coordination with other contractors, the Company or its Affiliates and occasional rescheduling of the Work or Project may be required and that minor delays in performance of the Work may result. Any difference or conflict which may arise between the Contractor and other contractors, or between the Contractor and workmen of the Company or its Affiliates, in regard to their work, shall be resolved as determined by the Company. Notwithstanding any other provision of the Agreement, the Contractor acknowledges that such coordination, occasional rescheduling and minor delays shall not justify an increase in the price as determined under the Agreement or an extension of time for delivery or performance.

- 35.5 The Contractor shall promptly remedy, at its sole expense, any injury or damage that may be sustained by other contractors or the Company and its Affiliates as a result of the Contractor's activities under the Agreement.
- 35.6 If the Contractor's Work depends upon the work of others, the Contractor shall inspect and give the Company prompt written notice of any defects in the work that renders it unsuitable for the Contractor to perform the Work.

### **36.0 LIENS/BONDS**

- 36.1 The Contractor, for itself, its Subcontractors and all other persons performing under the Agreement hereby waives, to the full extent permitted by law, all right to have filed or maintained any mechanics' or other liens or claims for or on account of the services, labor or materials to be furnished under the Agreement. The Contractor shall pay punctually for all labor, equipment and materials and all liabilities incurred by it in performance of the Agreement, and when requested shall furnish the Company with satisfactory evidence of such payment.
- 36.2 The Contractor shall (1) indemnify and save harmless the Company and its Affiliates and their officers, directors, employees, agents, servants, and assigns from all laborers', materialmen's, and mechanics' liens upon the real property upon which the Project is located arising out of the Services, equipment and materials furnished by the Contractor and its Subcontractors in connection with the Project, and (2) to the full extent permitted by law, keep such property free and clear of all liens, claims, and encumbrances arising from the performance of the Agreement by the Contractor and Subcontractors.
- 36.3 The Contractor shall not cause or permit any lien or security interest to attach to any real or personal property of Company.
- 36.4 Within 15 Days of signing the Agreement, the Contractor shall, at the Company's option, provide the Company with an executed copy of each a Payment Bond, a Performance Bond and a Lien Bond for the Work in the amount of the Contract Price covering the payment of, and performance of all obligations arising under the Agreement and to keep the Company's property clear of any encumbrances relating to the Agreement. The Company may require additional bonds if the value of the Agreement, in the Company's opinion, is appreciably increased.
- 36.5 The Payment Bond and the Performance Bond form shall be AIA Document A312, as published most recently published by the American Institute of Architects, except that the definition of claimant found in the Payment Bond, shall be modified to include all persons or entities, of any tier, having a direct contract with the Contractor or with a Subcontractor (including suppliers), of any tier, to furnish labor, materials or equipment for use in the performance of the Agreement. All other parts of the definition of claimant shall remain unmodified. The Lien Bond shall be on the form as set forth in the Agreement.
- 36.6 The Contractor shall furnish a copy of the Payment Bond to all Subcontractors (including suppliers) with whom it has a contract to furnish labor, equipment or materials for use in the performance of the Agreement, and shall require that all Subcontractors, of any tier, supply copies of the Payment Bond to their Subcontractors (including suppliers).
- 36.7 The cost for the Payment Bond, Performance Bond, and Lien Bonds are included in the prices referenced in the Agreement or Purchase Order.

### **37.0 ASSIGNMENT/SUBCONTRACTING**

- 37.1 The Agreement is binding upon the Parties and their heirs, executors, administrators, successors, and assigns. The Contractor shall not assign the Agreement, or any of the moneys to become due and payable



under the Agreement, or subcontract the whole or any part of the Work, without first having obtained the Company's written consent to such assignment or subcontract. Any such assignment or subcontract for which the Company's written consent is not obtained will be null and void. If the Contractor proposes to subcontract any of the Work, it shall give written notice thereof to the Company specifying the name, address, qualifications, and experience of the Subcontractor, and the specific Work which the Subcontractor is to perform. If the Company consents in writing, the Contractor may subcontract the specific Work to the Subcontractor. All Work performed for the Contractor by a Subcontractor shall be pursuant to an agreement between the Contractor and Subcontractor which binds the Subcontractor to the applicable terms and conditions of the Agreement for the benefit of the Company and its Affiliates.

- 37.2 The Company may assign the Agreement or any part thereof to any Affiliate.
- 37.3 If the Contractor terminates its existence as a corporate entity or if the Contractor is part of a merger, acquisition, sale, consolidation or take-over, or if all or substantially all of the Contractor's assets are transferred to another person, or business entity, the Company shall, in its sole discretion, have the right to terminate the Agreement as set forth in Section 18.1 or to require the Contractor's successor to carry out the duties and obligations of the Contractor under the Agreement.
- 37.4 If at any time during the performance of the Project, the Company determines that any Subcontractor is not performing in accordance with the Agreement, the Company may so notify the Contractor who shall take immediate steps to remedy the performance or to cancel the subcontract, whichever the Company so requests.
- 37.5 All Subcontractors shall be subject to the foregoing provisions, and nothing contained in the Agreement shall create any contractual relation between any Subcontractor and the Company or its Affiliates, nor relieve the Contractor of any obligation to perform the Work. No Subcontractor is intended to be or shall be deemed a third party beneficiary of the Agreement. As a condition of any subcontract, the Contractor shall require any Subcontractor to remove any claim it might have, in law or equity directly against the Company or its Affiliates. The Contractor shall be fully responsible to the Company for the acts and/or omissions of any Subcontractor and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor as if no Subcontractors were in place. Any obligation imposed by the Agreement upon the Contractor, where applicable, shall be equally binding upon and shall be construed as having application to any Subcontractor.
- 37.6 To the fullest extent permitted by law, the Contractor shall require Subcontractors to indemnify, defend at the Company's option, and hold the Indemnified Parties harmless from and against any and all claims, demands, actions, losses, damages and expenses, including attorney's fees and other expenses, resulting from or arising out of any of its Subcontractors' performance of Work or Services. The complete or partial failure of any insurance carrier to fully protect and indemnify the Indemnified Parties, or the inadequacy of the insurance, shall not in any way lessen or affect the obligation of the Contractor or its Subcontractors to indemnify the Indemnified Parties.
- 37.7 Notwithstanding any other provision of the Agreement, Section 37.6 shall survive the termination or expiration of the Agreement

## **38.0 ENTIRE AGREEMENT**

- 38.1 The Agreement constitutes the entire Agreement between the Company and the Contractor with respect to the Work specified, and all previous representations relative thereto, either written or oral are hereby annulled and superseded. No modification of any of the provisions of the Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

## **39.0 SEVERABILITY/MISCELLANEOUS**

- 39.1 If any section, phrase, provision or portion of the Agreement is, for any reason, held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such section, phrase, provision or portion so adjudged will be deemed separate, distinct and independent and the remainder of the terms of the Agreement will be and remain in full force and effect and will not be invalidated or rendered illegal or unenforceable or otherwise affected by such adjudication. The parties shall negotiate in good faith an equitable adjustment in the affected provision of the Agreement; however, the validity and enforceability of the remaining parts thereof shall be otherwise fully enforceable. Paragraph headings are for the convenience of the Parties only and are not to be construed as part of the Agreement.

## **40.0 COMPLIANCE WITH LAWS AND STANDARDS**

- 40.1 The Contractor shall, in connection with any Work provided by the Contractor hereunder, comply with all applicable federal, state and local laws, ordinances, rules, regulations, codes, permits, licenses, authorizations, and orders of any governmental body, agency, authority, or court having jurisdiction over the Company or the supply of the Work ("Laws").
- 40.2 In connection with any Work provided by the Contractor hereunder, the Contractor shall, and shall provide that its Subcontractors, agents, and representatives shall, at all times: 1) strictly comply with the Company's safety and environmental standards, rules, regulations, directives, and procedures, including, without limitation, Company's "Contractor Safety Requirements" and "Contractor Environmental Requirements and with any and all applicable federal, state, municipal, and local laws, rules, regulations, codes, and ordinances related to employee and public health, safety, and/or the environment (as in force upon the date of the Agreement and as in the future passed, enacted, directed, or amended), collectively, ("Standards,"); and 2) conduct all operations in a manner to ensure the safety of all personnel, the general public, and the protection of the environment and so as to avoid the risk of injury, death, loss, theft, or damage by accident, vandalism, sabotage, or any other means. In cases where one or more conflicting Standards may be applicable, the Contractor shall comply with the most stringent applicable Standard.
- 40.3 The Contractor warrants that it has not offered or given and will not offer or give to the Company or its Affiliates, or any of its or their officers, directors, employees, agents, trustees, successors or assigns ("Purchasing Parties") any gratuity, or any kickback within the meaning of the Anti-Kickback Act of 1986 in order to secure any business from or influence the Purchasing Parties with respect to the terms, conditions or performance of any contract with or purchase from the Company or its Affiliates.
- 40.4 Contractor shall, in connection with anything provided by the Contractor hereunder, comply with Company's Diversity Program requirements. Such requirements include but are not limited to completion and return of the "The Contractor Diversity Bid Form," quarterly reporting on the Contractor's utilization of diversified sellers, and maintenance of certifications from accredited institutions on file, which files will be subject to Company audit.

## **41.0 ENVIRONMENTAL COMPLIANCE**

- 41.1 Without limiting the provisions of Section 40.0, the Contractor shall conduct all Work and Services in such a manner to minimize the impact upon the natural environment and shall comply fully with all applicable federal, state and local laws, ordinances, rules, regulations and permits for the protection and preservation of the environment, as may be amended from time to time, and all applicable environmental policies and practices prescribed by the Company, including without limitation, the Resource Conservation and Recovery Act, the Hazardous Materials and Transportation Act, the Occupational Safety and Health Act of 1970 ("OSHA"), the New York Environmental Conservation Law, regulations of the Environmental Protection Agency, the Department of Transportation and the New York Department of Environmental Conservation (when applicable for the jurisdiction) issued pursuant thereto, and the terms of Company's

Special Conditions of Contract - Environmental, if incorporated in the Agreement by the Company. The Contractor shall impose the requirements of this Section 41.0 upon its Subcontractors and suppliers.

- 41.2 Contractor shall provide to Company and post in a conspicuous location at the work site, safety data sheets ("SDS") as required for products used in Contractor's performance under the Agreement. Contractor shall post, control and disseminate SDS in accordance with Company's Hazard Communication Program National Grid Safety Procedure F-610 and the applicable edition of OSHA Standard No. 1910.1200. Contractor shall provide periodic updates of the SDS documentation and copies thereof shall also be retained at the work site and shall be readily available to all Contractor's personnel engaged in manufacturing Goods or providing Services. The cited standard and policy are available through Company's Safety Department and are incorporated by reference in these Terms and Conditions.
- 41.3 The Contractor shall immediately notify the Company of any citations or notices incurred on the Project and forward copies thereof immediately upon receipt to the Company. If any violation of environmental permits, licenses, and other environmental regulations or statutes occurs, the Contractor shall take immediate action to mitigate any further violation. The Contractor shall immediately notify the Company of the violation and wait for further instructions from the Company. If the Company instructs the Contractor to remedy the violation, the Contractor shall contact the appropriate government agencies as required by law and report to the Company, in writing, what actions it has performed and intends to take to remedy the violation. The Contractor shall also report to the Company its intended procedures for preventing recurrence of such violations.
- 41.4 Contractor shall, at its expense, take all actions necessary to protect the Company, its Affiliates and all third parties, including without limitation employees and representatives of the Company, from any exposure to, or hazards of, hazardous and/or toxic wastes or substances. In the event of a release or discovery of hazardous waste, the Contractor shall respond in accordance with the Agreement.
- 41.5 If the Contractor fails to correct an environmental violation when directed by the Company to do so, the Company may direct a third party to do so at the Contractor's expense.
- 41.6 The Company will notify the Contractor of any observed non-compliance; however, failure of the Company to recognize or notify the Contractor of any non-compliance shall not relieve the Contractor of its contractual and legal responsibility for such non-compliance and to protect the environment.

## **42.0 UTILIZATION OF SMALL BUSINESS CONCERNS**

- 42.1 It is the policy of the United States that Small Business Concerns, Veteran-Owned Small Business Concerns, Service-Disabled Veteran-Owned Small Business Concerns, HUBZone Small Business Concerns, Small Disadvantaged Business Concerns, and Women-Owned Small Business Concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with Small Business Concerns, Veteran-Owned Small Business Concerns, Service-Disabled Veteran-Owned Small Business Concerns, HUBZone Small Business Concerns, Small Disadvantaged Business Concerns, and Women-Owned Small Business Concerns.
- 42.2 The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

- 42.3 The Contractors acting in good faith may rely on written representations by their Subcontractors regarding their status as a Small Business Concern, a veteran-owned Small Business Concern, a Service-Disabled Veterans-owned Small Business Concern, a HUBZone Small Business Concern, a Small Disadvantaged Business Concern, or a Women-Owned Small Business Concern.

### **43.0 EQUAL EMPLOYMENT OPPORTUNITY**

- 43.1 The Contractor shall comply with all applicable federal, state and local anti-discrimination laws, the standards and regulations issued thereunder and the amendments thereto, including Executive Order 11141 relating to age discrimination, Executive Order 11246 relating to equal employment opportunity, Executive Order 11625 relating to minority business enterprise, Executive Order 11701 relating to employment of veterans and Executive Order 11758 relating to handicapped employment. The aforementioned are incorporated herein as if set forth herein verbatim. The Contractor agrees to comply with the Human Rights Law of the State of New York (Section 15 of the Executive Law), if applicable.
- 43.2 Without limiting the foregoing, the Contractor agrees as follows:
- 43.2.1 Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 43.2.2 Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
- 43.2.3 Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 43.2.4 Contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 43.2.5 Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 43.3 All subcontracts and agreements that the Contractor enters into to provide the Work under the terms of the Agreement shall obligate such Subcontractors to comply with the foregoing provisions.

#### **44.0 JURISDICTION AND GOVERNING LAWS**

- 44.1 Unless other governing laws and/or other jurisdictions are specifically established in the Agreement, the Agreement shall be deemed to be executed in the State of New York and shall be interpreted and enforced according to the Laws of the State of New York.
- 44.2 Unless otherwise specifically established in the Agreement, only the courts of New York shall have jurisdiction over the Agreement and any controversies arising out of the Agreement; any controversies arising out of the Agreement shall be submitted only to the courts of New York; the Contractor hereby submits to the courts of New York for the purposes of interpretation and enforcement of the Agreement.
- 44.3 Contractor hereby waives personal service by manual delivery and agrees that service of process on the Contractor in any action arising out of the Agreement may be made by registered or certified mail, return receipt requested, directed to the Contractor at its address set forth on the Agreement.

#### **45.0 WAIVER**

- 45.1 No delay or omission in the exercise of any right under the Agreement will impair any such right or will be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. If any of the provisions of the Agreement are breached and thereafter waived, such waiver will be limited to the particular breach so waived and will not be deemed to be a waiver of any other breach under the Agreement.

#### **46.0 PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

- 46.1 Each and every provision of law and governmental regulation required by law to be inserted in the Agreement is deemed inserted and the Agreement will be read and enforced as though the same were so included in the Agreement. If through mistake or otherwise any such provision is not inserted or is not correctly inserted, then, upon the application of either party, the Agreement shall be deemed to be amended to make such insertion or correction.

#### **47.0 NOTICES**

- 47.1 All notices, demands, requests, and other communications required or desired to be given hereunder must be in writing and sent by United States registered mail, return receipt requested, or by nationally recognized overnight carrier, and addressed to the person or position identified on the Agreement, at its address set forth in the Agreement and in the case of a notice given to the Company with a copy to General Counsel, National Grid, 40 Sylvan Road, Waltham, Massachusetts 02451.

#### **48.0 PREVENTION OF CORRUPTION AND BRIBERY**

- 48.1 Contractor shall conduct itself in an ethical manner and provide services to the highest ethical standards. The Contractor shall not be a party to the following: bribery of any kind; collusion with other contractors; regulatory agencies or other third parties; provision of enticements to the Company's officers, directors, employees, agents, successors, assigns, and servants in any form including, but not limited to, gifts, gratuities or other benefits. Without limiting the foregoing, the Contractor represents and warrants to the Company that the Contractor, its Subcontractors, its and their Affiliates, employees, officers, agents and shareholders, have not committed and shall not commit any Prohibited Act.
- 48.2 If the Contractor, any Subcontractor, any of its or their Affiliates, employees, officers, agents or shareholders, commit any Prohibited Act, then the Company shall be entitled to act in accordance with Sections 48.3 to 48.7 (inclusive) below.

- 48.3 If a Prohibited Act is committed by the Contractor, any of its Affiliates, or any of its or their employees, officers, agents or shareholders not acting independently of the Contractor and its Affiliates, then the Company shall be entitled to terminate the Agreement for cause, under Section 18.1, by giving written notice to the Contractor, specifying the date on which the Agreement shall terminate.
- 48.4 If a Prohibited Act is committed by an employee or agent of the Contractor or of any of its Affiliates, acting independently of the Contractor and its Affiliates, then the Company may give written notice to the Contractor of termination of the Agreement for cause, under Section 18.1, and the Agreement will terminate 10 business days after the date of such notice, unless, within such 10 business day period, the Contractor terminates (or arranges for the termination of) such employee's employment or agent's engagement and (where applicable) ensures that the performance of such employee's or agent's obligations in relation to the Agreement are performed by another person.
- 48.5 If a Prohibited Act is committed by a Subcontractor or by an employee or agent of that Subcontractor not acting independently of that Subcontractor, then the Company may give written notice to the Contractor of termination of the Agreement for cause, under Section 18.1, and the Agreement will terminate ten business days after the date of such notice, unless, within such 10 business day period, the Contractor terminates the relevant subcontract and ensures that the performance of the Subcontractor's obligations in relation to the Agreement are performed by another person.
- 48.6 If the Prohibited Act is committed by an employee or agent of a Subcontractor acting independently of that Subcontractor, then the Company may give written notice to the Contractor of termination of the Agreement for cause, under Section 18.1, and the Agreement will terminate ten business days after the date of such notice, unless within such 10 business day period, the Subcontractor terminates the employee's employment or agent's engagement and ensures that the performance of that employee's or agent's obligations in relation to the Agreement are carried out by another person.
- 48.7 If the Prohibited Act is committed by any person not specified in Sections 48.2 to 48.6 (inclusive) above (or by any person specified in such conditions but acting in a capacity not specified in such conditions) then the Company may give written notice to the Contractor of termination of the Agreement for cause, under Section 18.1, and the Agreement will terminate 10 business days after the date of such notice, unless, within such ten business day period, the Contractor (a) arranges for the termination of such person's employment or engagement, and the appointment of their employer or the person who engaged them (where not employed or engaged by the Contractor or any relevant Subcontractor) and (b) ensures that the performance of that person's obligations in relation to the Agreement are performed by another person.
- 48.8 The Company shall specify, in any notice of termination under this Section 48.0 the general nature of the relevant Prohibited Act and the identity of the party whom the Company believes has committed such Prohibited Act.
- 48.9 Without prejudice to the Company's other rights and remedies, the Contractor shall indemnify the Indemnified Parties in full and on demand against all losses, liabilities, costs, claims and expenses incurred directly or indirectly by the Company as a result of the performance of any Prohibited Act by the Contractor, any Subcontractor, any of its or their Affiliates, employees, officers, agents or shareholders, or any of the Contractor's personnel in connection with the Agreement, its subject matter or any agreements (including any sub-contracts of whatever tier) relating to the Agreement.
- 48.10 Without prejudice to the other provisions of this Section 48.0, the Contractor shall ensure that:
- 48.10.1 all Contractor personnel are fully aware of the Company's policies on anti-bribery and anti-corruption notified in writing to the Contractor from time to time by or on behalf of the Company and that all Subcontractors and agents (of whatever tier) are engaged upon terms which contain provisions in relation to prevention of bribery and corruption which are no less onerous than this Section 48.0; and

- 48.10.2 it has and shall maintain in place throughout the term of the Agreement, its own policies and procedures, (including adequate procedures under the Bribery Act 2010), to ensure compliance with the Company's policies on anti-bribery and anti-corruption notified in writing to the Contractor from time to time by or on behalf of the Company, and will enforce them where appropriate.
- 48.11 The termination of the Agreement pursuant to this Section 48.0 shall entitle the Company and each of its Affiliates to terminate any other contracts between the Contractor and the Company, or the Contractor and such Affiliate (as appropriate) on written notice to the Contractor, under their respective termination-for-cause provisions.
- 48.12 Notwithstanding Sections 24.0 and 44.0, any dispute relating to the interpretation of this Section 48.0 or the amount or value of any gift, consideration or commission shall be determined by the Company, and the Company's decision shall be final and conclusive.

## **49.0 RECORDS**

- 49.1 Contractor shall, and shall require Subcontractors, for the Company's benefit, at their own expense, to maintain a method of accounting in accordance with generally accepted accounting procedures and practices with respect to all matters pertinent to the Agreement. In so far as the Contractor's and Subcontractors' books, records, books of account, correspondence, contracts and subcontracts, and vouchers pertain to Work under the Agreement, or claims made by the Contractor for extension of time, costs, or expenses under any provisions of the Agreement, they shall be made available to the Company or its authorized representative for inspection and audit and shall be kept in a manner which (1) adequately permits evaluation and verification of any invoices, payments or claims based on the Contractor's or Subcontractors' actual costs incurred in the performance of the Project and (2) permits the Contractor to furnish the Company an accurate written allocation of the total amount paid for the Project and such further records as may be reasonably required by the Company.
- 49.2 Contractor shall maintain records during the term of the Agreement, including any records relating to the employment or hiring of minorities and/or females, until (i) three years after the expiration of the last expiring warranty, or (ii) the expiration of any period for which the Company or its Affiliates are required, by any regulatory agency, to have such records maintained, whichever is later. Additionally, records that relate to disputes, appeals, litigation, or the settlement of claims arising out of the performance of the Agreement shall be retained until such disputes, appeals, litigation, or claims have been finally settled. In lieu of retaining such records the Contractor may deliver such records to the Company at any time after the expiration of the last expiring warranty. The Contractor agrees to make such records available to the Company or its authorized representative at no cost to the Company or its authorized representative for inspection or audit at any time during such period.
- 49.3 The Company shall give the Contractor and Subcontractors reasonable notice of any intended inspection or audit of their records.
- 49.4 The Company and its authorized representative shall have access, during normal working hours, to all necessary the Contractor and Subcontractor facilities and shall be provided with an adequate and appropriate work space in order to conduct inspections and audits of such records.
- 49.5 Contractor shall require Subcontractors to comply with the provisions of this Section 49.0 for the benefit of the Company.
- 49.6 If the Company's inspection or audit identifies any inconsistencies, errors or costs not expended in accordance with the Agreement, the Contractor shall make appropriate adjustments as may be required, including refund to the Company.

## **50.0 REGULATORY FILINGS**

- 50.1 It is understood and agreed that the Agreement and Purchase Order may be required to be filed with a state regulatory agency having jurisdiction over the Company or one of its Affiliates prior acceptance in order for it to become fully effective and binding.
- 50.2 The Company shall promptly take all necessary steps to accomplish such filing, if deemed necessary, and, if so filed, the Agreement will be subject to and conditioned upon the agency's acceptance for filing within 90 days from the date of such filing. The Company agrees to notify the Contractor as soon as practicable of the receipt of agency's acceptance for filing.
- 50.3 If the agency's acceptance for filing is not received by the Company, the Agreement will be deemed null and void, and neither party will have any other or further liability to the other for anything arising out of or in connection with these Terms and Conditions, except as may otherwise be mutually agreed to by the parties.

## **51.0 E-COMMERCE/ISNETWORLD**

- 51.1 The Company reserves the right, but shall not be obligated, to (a) convert all terms that are the subject of this transaction to an 'e-commerce' format to enable the Company to conduct its management of and performance under this Agreement over the Internet, and (b) to use the services of a third party provider to furnish or create the required "e-commerce" solution for such Internet capability.
- 51.2 If required by the Company, in accordance with Company's safety procedures and risk assessment for the Project, the Contractor shall participate, and shall require its Subcontractors to participate, in ISNetworld, at Contractor's cost.



**SCHEDULE B**

**SERVICES**

Contractor shall perform the following Services on each System(s) specified on Schedule D:

**Time to Perform Service:**

**High Priority:** Any loss of power to major equipment (inverters, transformers, switchgear) or communication loss which causes the status of the plant to become unknown

**Response Time:** <24 hour

**Medium Priority:** Any loss of power to minor equipment (combiner box/string inverter) or communication loss that does not cause the status of the plant to become unknown

**Response Time:** 24 hours – 72 hours

**Low Priority:** Any loss of power to a source circuit or communication loss to non-critical resources (weather station, etc.)

**Response Time:** 24 - 120 hours

<b>National Grid</b>		
<b>ARRAY PROPERTY</b>		
<b>Service</b>	<b>Recommended Frequency</b>	<b>Scope</b>
Perimeter inspection	Quarterly	Visual inspection of the fence perimeter for purpose of identifying secure posts, gates, signs of breach, vegetation growth that covers warning/information signs or obstructs visual inspection.
Access road & right of way inspection	Quarterly	All roads and right of ways will be inspected to ensure no obstructions, including snow if needed, degradation of the route and free of all defects that would prevent normal traffic flow.
Building inspection	Quarterly	Exterior visual inspection of any buildings on site for signs of secure and intact doors and windows, signs of forced entry, vandalism, roof integrity that may compromise foundation, ventilations and structure.
Security system inspection	Annually	If applicable, Visual inspection of all security devices for signs of tampering, vandalism and theft.
Vegetation management	Quarterly	Whole site vegetation management may be addressed annually, except when seasonal conditions demand more frequent maintenance. Must maintain safe foot traffic within the array. Inspect ground for proper drainage patterns to maintain proper drainage within and around the PV array.
Signage inspection	Annually	Verify proper location, placement and visual clarity of all signage & warning placards on site. Must maintain compliance with ANSI, NEC, UL standards, site host and municipal requirements. Replace any signs or placards that are missing or damaged.
Shading inspection	Quarterly	Check for surrounding vegetation growth or other new shade items that may cast unwanted shadows on the array during energy production hours.
Maintain cleanliness	Quarterly	Inspect property for unwanted debris or trash throughout entire site. Properly remove and dispose of any debris or trash found around fenced area, PV array, inverter/transformer pads and anywhere else within site limits of work.

<b>National Grid</b>		
<b>DC ELECTRICAL SYSTEM</b>		
Service	Frequency	Scope
PV module inspection	Annually	<p>Visually inspect the entire PV array including scanning with thermal scanner. Any anomalies, "hot spots", or potential issues should be noted in the report and accompanied with a photo of the thermal scan for that module(s) and a record of where in the array the anomaly exists. Record soiling levels through I-V curve tracing of no fewer than two strings. Trace results before and after washing of a two string sample set should be presented in the inspection report. Visually inspect PV modules and racking for the following and remediate and/or report if found:</p> <ul style="list-style-type: none"> <li>a. Dirty, cracked, discolored or broken glazing</li> <li>b. Vegetative overgrowth/animal infestation</li> <li>c. Excessive condensation on or under glazing</li> <li>d. Array shading between 9 a.m. and 3 p.m.</li> <li>e. Loose mounting clips or brackets</li> <li>f. Corroded or loose racking support structure</li> <li>g. Corroded or loose frames</li> <li>h. Loose series connections, cord-plate separation/arching, degraded solder joints</li> </ul> <p>Identify broken, damaged, or defective solar modules</p>
Module washing	As needed but Maximum once per year	<p>All PV modules should be washed periodically to prevent the buildup of soil, tree sap, leaves, sticks, animal waste, oil and residue (excludes snow &amp; ice removal). Record soiling levels through I-V curve tracing of no fewer than two strings. Trace results before and after washing of a two string sample set should be presented in the inspection report. Module washing should be dictated based on results of soiling test. See PV modules manufacturer's recommendation for method and materials to perform proper module washing.</p>
String level wiring inspection	Annually	<p>Perform visual and thermal imaging inspection of all electrical connections. All string level wiring and wire management should be inspected for strained wires, disconnected/separated connectors, wire radii that are too small, unsecure wire harness/clips, animal related damage and wire tray grounding. Inspect grounding electrode systems and test continuity of equipment grounding system between modules, racking, and equipment grounding conductors.</p> <p>Megger testing of all DC output feeders.</p>
Combiner boxes inspection	Quarterly (biannually)	<p>Inspect enclosure latches, proper disconnect operation and seals, all wire terminations for torque mark alignment, exposed wires and proper locks to prevent unauthorized access. Confirm current proper current flow across all fuses using an IR thermographic camera or clamp on ampere test. Use an appropriate (volt, ohm, DC clamp-on) meter to perform an EGC (equipment grounding conductor) continuity test.</p>
DC feeder testing & inspection	Annually	<p>Physical inspection of all wire terminations for torque mark alignment, exposed wires and pull test of clamped wire ends before and after seasonal temperature swings (Fall and Spring).</p>

Electrical system testing	Annually	<p>Use an appropriate (volt, ohm, DC clamp-on) meter to perform an open-circuit voltage test of all strings with the inverter off, and a maximum power current test of all strings with the inverter on with recorded levels of power output. Inspection of surge suppressors. Test all safety devices, exercise all switches. Perform insulation resistance tests on conductors that exhibited anomalies from the resistance of similar conductors during commissioning.</p> <p>Test continuity of equipment grounding system between modules, racking, and equipment grounding conductors .</p>
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**National Grid**

**AC ELECTRICAL SYSTEM**

Service	Frequency	Scope
Inverter inspection	Quarterly	<p>Visual inspection of exterior cabinet for ventilation, corrosion, environmental ingress and proper locks to prevent unauthorized access. Physical inspection of internal filters, capacitors, fuses, wire terminations for torque mark alignment, exposed wires, pull tests, corroded terminals and any manufacturer specified maintenance.</p> <p>Inspect/test AC and DC transient voltage surge suppressors or MOVs and replace failed suppressors.</p>
Inverter operations testing	Quarterly	<p>Confirm proper operation of ventilation fans, HMI (human machine interface) display and all readings, auto- shutdown/restart procedure, emergency shutdown procedure, and any manufacturer specified operation test procedure. Use an appropriate (volt, ohm, DC clamp-on) meter to perform an EGC (equipment grounding conductor) continuity test. Test all manual and automatic switches.</p>
Transformer inspection	Quarterly	<p>If applicable, Visual inspection of exterior cabinet for ventilation, corrosion, leaking, visual read of oil (level, temperature and pressure) gauges and proper locks to prevent unauthorized access.</p>
Disconnect switch inspection	Quarterly	<p>Visual inspection of enclosure latches, proper disconnect operation, environmental seals, wire terminations for torque mark alignment, terminations for corrosion, exposed wires, pull tests, clamped wire ends and proper locks to prevent unauthorized access. Confirm current proper current flow across all fuses using an IR thermographic camera or clamp on ampere test. Use an appropriate (volt, ohm, DC clamp-on) meter to perform an EGC (equipment grounding conductor) continuity test. Perform thermal imaging inspection of AC and DC disconnects.</p>
AC feeder inspection	Annually	<p>Visual inspection for torque mark alignment, corrosion, exposed wires, pull tests of clamped wire ends before and after seasonal temperature swings (Fall and Spring).</p>
Interconnection inspection	Monthly	<p>Visual inspection of all interconnection components including utility poles, supports, wires, terminations, intact meter enclosure. A monthly energy meter reading should be made that includes meter ID number, kWh reading and local time.</p>

**National Grid**

**CIVIL & MECHANICAL**

Service	Frequency	Scope
Mounting system inspection	Annually	<p>Inspect entire racking system for erosion around mounting, rust, corrosion, sagging/bending, missing/broken hardware and loose fasteners and clips.</p>

Tracking system inspection	Annually	Inspect entire racking system for erosion around mounting, rust, corrosion, sagging/bending, missing/broken hardware and loose fasteners and clips. Check moving parts for proper lubrication per manufacturer's recommendation.
Tracking system operation test	Annually	Use a digital level to check the calibration and positioning of inclinometers. Check array for signs of parts hitting or rubbing other parts. Confirm proper wind-stow operation.

## National Grid

<b>MONITORING &amp; INSTRUMENTATION SYSTEM</b>		
Service	Frequency	Scope
Weather station inspection	Quarterly	Visual inspection of the sensor cluster and mounting to ensure secure mounting free of debris and sensor mis-readings.
Module temperature sensor inspection	Quarterly	Visual inspection of sensor wiring and wire management, and the device mounting method to ensure it is seated firmly against the contact surface of the module. In the event where tape or adhesive is used, confirm the sensor is free of defects that allow proper exposure to the environment for an accurate reading.
Irradiance sensor cleaning	Quarterly	The glass dome or window should be cleaned per the manufacturers recommended procedure even with no visible signs of soiling or debris.
Irradiance sensor calibration	Per mfg or annually	In most cases, sensor calibration requires the irradiance sensor to be replaced and sent off site for calibration. Perform calibration per manufacturer's recommendation.
PT/CT calibration	Per mfg or annually	This includes calibration of all analog channels and PT/CT instrumentation used from the string level to revenue generators reporting levels of the plant systems. Perform calibration per manufacturer's recommendation.
Data acquisition system (DAS)	Weekly	Remotely access the portal to verify proper data flows and communications, signs of alarm or other health indicators.
On-Site Response System (Outage with no threat to persons/property)	Continuous	In the event an alarm is triggered for an outage or system issue, O&M contractor shall respond on site within 48 hours. NG should be notified of the alarm within 6 hours of the event.
On-Site Response System (Emergency event with threat to persons/property)	Continuous	In an emergency event in which persons or property are subject to harm, NG should be notified immediately and O&M contractor should be immediately dispatchable to coordinate with emergency responders.
On-Site Response System (Routine/request for service)	Continuous	Routine or NG-requested service should be agreed upon by all parties including host site owner.
Maintenance reporting	Continuous	O&M contractor should be responsible for the management update of all forms associated with operations and maintenance activities.
Event log	Continuous	An event log should be maintained tracking all events and alarms, as well as mitigation of alarms, for the system throughout its lifetime.
Spare parts inventory	Continuous	O&M contractor should be responsible for maintaining and updating the spare parts inventory for the system and replenishing the inventory at NG's request.
Production log	Continuous	O&M contractor should be responsible for performance log of system documenting actual and projected energy output over time. Reports on production should be provided at intervals pre-agreed-upon by NG.
Technical support hotline	Continuous	O&M contractor should provide a technical support hotline and email address for prompt emergency response and inquiries about issues affecting the safe operation of the PV system.
Warranty management	Continuous	O&M contractor should coordinate and facilitate any repairs or replacements to/of equipment covered by warranties still in effect.

Reactive service visits are defined as follows:

- 1) Response to failures of data communications or generation failures on Site.
- 2) Investigative visits in response to questions or concerns of the Company.
- 3) Corrective maintenance visits.
- 4) Requests for Preventative Maintenance outside the scope of work as defined in this Exhibit (e.g. The Customer suspects that the irradiance sensor on Site is dirty and requests a separate visit to check the sensor and clean it).
- 5) Site tour or Site accompaniment requests from the Customer.
- 6) Emergency response visits to Site.
- 7) Any other request for a Site visit by the Customer that falls outside of the scope defined in this Exhibit.

### **SYSTEM MONITORING EQUIPMENT**

The revenue grade monitoring system will be used to provide the actual kWh production data from the System. On an annual basis, the monitoring system will be tested to verify that it is operating as intended. Automatic e-mail alerts will be setup within ten (10) days of the execution of each Rider. Automatic e-mail alerts will be issued by the monitoring system if the System goes offline at any time for any reason. Company will be notified of alerts and Contractor will acknowledge the alerts. Contractor will respond as needed to troubleshoot the problem within the timeframe specified above.

Setup, maintenance and administration, via the monitoring system's online or software interface, of alerts and equipment parameters (e.g., string or zone level monitoring, expected energy output per manufacturer specifications, accounting for actual installation characteristics even if different from blueprints) will be included in the Services provided by Contractor.

### **EXCLUDED SERVICES.**

The following is expressly excluded from the services:

1. Any installation of additional monitoring equipment that may be required if Site conditions change for reasons beyond Contractor's control. This includes but is not limited to interference from additions or repairs to the Site/System.
2. Parts or equipment that were not specified in the as-built drawings, amendments and change orders to the EPC Contract, dated \_\_\_\_\_ and any amendments thereto, entered into between the Parties, and installed by Contractor or its subcontractors.
3. In the event that any manufacturer of materials, equipment or similar items relating to any System is not able or willing to honor its product warranty to Company, Contractor shall not be responsible for the costs of any such manufacturer's components.

**SCHEDULE C**

**EXAMPLE SITE SUBCONTRACT AGREEMENT RIDER**

This Site Subcontract Agreement Rider (“Rider”) dated as of [\_\_\_\_\_] is governed by the terms and conditions of the Operation and Maintenance Services Agreement between Massachusetts Electric Company dba National Grid USA and Borrego Solar Systems, Inc., dated \_\_\_\_\_.

Site Name:

Site Address:

Effective Date of Site Subcontract Agreement Rider:

Site Capacity (KW):

Number of Modules on Site:

Inverter Quantity and Type:

Racking Type:

Annual Fee:

Module Washing Fee (per wash):

Landscape Maintenance Fee (per visit):

Hourly Fees/Rates for Additional Services:

The Annual Fee and fees for Additional Services shall increase by two percent (2%) upon each anniversary of the Effective Date during the Term of the Agreement. Should parts be needed they shall not exceed a 10% mark up.

Hourly rates for work performed outside Normal Working Hours (defined as between 8:00 am – 5:00 pm in the time zone in which the Work is being performed) shall be billed at 150% of the specified rates.

**IN WITNESS WHEREOF**, the Parties, intending to be legally bound hereby, have caused this Rider to be executed by their duly authorized officers as of the date first written above.

**BORREGO SOLAR SYSTEMS, INC.**

**MASSACHUSETTS ELECTRIC  
COMPANY dba NATIONAL GRID USA**

By \_\_\_\_\_  
Name: Matthew Murphy  
Title: Director of Operations & Maintenance

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE D – PROPOSED SITES, SYSTEMS, COST**

System Number	Location (street, town, zip)	Size (kW dc)	Annual O&M Fee Y1	Annual O&M Fee Y2	Annual O&M Fee Y3	Annual O&M Fee Y4	Annual O&M Fee Y5
2	755 Main St, Dighton 02715	995.41					
3	Frank Mossberg Drive, Attleboro 02703	649.04					
4	Richardson Drive, Attleboro 02703	990.95					
8	Groton Road - Shirley, Shirley 01464	990.95					
11	79 Old Upton Rd, Grafton 01519	649.04					
13	29 Oxford Rd, Charlton 01507	649.04					
15	50 Auburn St, Millbury 01527	649.04					
16	17 Kelly Rd 1, Sturbridge 01566	990.95					
20	17 Kelly Rd 2, Sturbridge 01566	990.95					
22	24 Boutilier Rd, Leicester 01524	649.04					
24	Groton School Rd, Ayer 01432	995.41					
27	Cape Cod Lumber, Abington 02351	997.12					
5	1187 Blossom – 1, Fall River 02722	995.41					
28	1187 Blossom – 2, Fall River 02722	995.41					
	Totals	12,187.74					

The Annual Fee and fees for Additional Services shall increase by two percent (2%) upon each anniversary of the Effective Date during the Term of the Agreement.

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### FOREWORD

National Grid's vision is to be a world-class safety organization, with zero injuries every day.

The Executive Safety Committee provides review and input for Safety Policies and Procedures through the Safety Policies and Procedures Subcommittee.

Safety Services is the owner of this procedure and is responsible for maintaining and implementing this procedure, soliciting comments from stakeholders and revising as necessary.

This document, "Contractor Safety Requirements", represents the current contractor safety requirements that are unique to operations and various lines of business (LOB) at National Grid. This document does not reference actions that are required by OSHA, other laws, rules, or regulations. These are requirements that should be understood by the contractor and contractor compliance with all applicable federal, state and local laws, rules, and regulations is expected by National Grid as a contractual condition.

Please direct any questions regarding this document to the Safety Department.

This document will be updated as necessary to reflect changes in National Grid safety policies and procedures.

### Record of Change

Date of Review/Revision:

Revision	Date	Description
1	08/5/2004	Initial
2	3/2/2005	Additions
3	01/30/2007	Additions
4	08/01/2008	Additions in red
5	08/01/2010	Additions in Bold
6	02/01/2011	Audit recommendations included
<b>7</b>	<b>09/11/2013</b>	<b>Additions in Bold</b>

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## 1.0 CONTRACTOR SAFETY AT NATIONAL GRID

### 1.1 Introduction

Safety performance is a prime consideration in the selection of contractors. National Grid will stipulate Safety performance requirements and responsibilities in our contracts and purchase orders and will hold the contractor accountable for meeting the contractual requirements.

This document, "Contractor Safety Requirements", is updated periodically to communicate all aspects of National Grid contractor safety to bidders and current contractors.

National Grid's goal is to establish a long-term working relationship with contractors who share the same safety values and demonstrate those values through their work performance.

Contractor safety at National Grid involves three broad areas:

- (1) The Contractor Selection Process (Procurement)
- (2) Safety Communication
- (3) Safety Compliance

#### (1) **Contractor Procurement**

Contractor safety begins with the selection of contractors who have demonstrated a good safety record. This is accomplished through a process overview during the procurement process and the scope of work involved.

#### (2) **Safety Communication**

Safety communication covers all the avenues and forums in which National Grid and the contractor communicates safety. Communication begins early in the bidding phase and is on-going as an integral part of the contractor-customer relationship. The goal is to ensure clarity and to limit misunderstandings.

#### (3) **Safety Compliance**

Safety compliance is the process of ensuring that the provisions of the contract are being followed. National Grid will assign the Owners Representative or other designated individuals to provide guidance and oversight. The Contractor is responsible for their employees and subcontractors and shall be held accountable for ensuring compliance with all applicable safety rules while working on National Grid property.

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## 1.2 Risk Ranking of Work

1. At the beginning of any project, National Grid will conduct a risk assessment for each anticipated work activity of a contracted service. National Grid will categorize these activities as low, medium or high risk. Risk refers to the chance of injury, property damage, or adverse public impact should the contractor deviate from the prescribed safety measures.
2. Activities that are designated as “high risk” means that death can result if safety measures are not followed. In general, any work related to electrical transmission and distribution, and gas/LNG operations shall be ranked by National Grid as High Risk.
3. The designation High Risk, Medium Risk, or Low Risk, refers only to the inherent risk associated with the work activity and is not an opinion on the ability of a contractor to work safely.
4. The Purchasing Agent will notify the bidder/contractor at the beginning of the procurement process if their contracted service has been ranked as high risk.

## 1.3 Bidder Information Request – High Risk Work

1. National Grid has established a relationship with ISNetworld to serve as the primary contractor information management system of National Grid bidder documents for high risk work activities. This is the first step in establishing a working relationship with National Grid. For Contractors already on the National Grid bid list, ISNetworld will request updated information quarterly.
2. The information that the Bidder provides serves as the basis for assessing safety qualification. For this reason, it is important that this form is approached in a candid and thorough manner. National Grid will review the submitted information. Any effort to avoid complete disclosure will disqualify the Bidder from bidding work at National Grid.

## 1.4 Safety Compliance

1. National Grid evaluates contractor compliance by conducting routine site visits, Compliance Assessments/SUSA visits and attending periodic contractor safety meetings.

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2. If a safety violation is observed by a National Grid representative, the violation will be discussed with the contractor at the time of discovery.
3. The contractor must implement corrective actions and establish measures to prevent a recurrence through Incident Analysis (IA) process.
4. Individual contractor personnel who habitually violate safety rules should be identified, and the contractor should remove the individual(s) from the project. National Grid reserves the right to remove any contractor employee(s) who violate or pose a safety risk to themselves, our employees or the general public.
5. If a contractor is observed to be operating in a manner that creates an imminent danger to persons or property, it is the responsibility of all individuals observing the hazard to stop the job or that portion of the job impacted until the issue has been resolved to the satisfaction of National Grid, the Owners Representative or Safety Representative.
6. Contracts/POs shall require the contractor to immediately forward any citations or notices incurred on the project upon receipt to the appropriate company representative and/or ISNetworld. The company representative must distribute copies of the citation or notice to senior management, Safety, Procurement, and the Legal Department.
7. Willful and/or repeat violations of safety requirements by the contractor may be considered a breach of the contract and reason for contract termination.
8. If the contractor's overall safety performance is viewed as being unsatisfactory or noncompliant with contract provisions, and if the contractor is unwilling to demonstrate satisfactory program improvement, the contractor may be removed from the project as may be provided for in the contract.
9. National Grid documents safety compliance by completing a "Contractor Performance Evaluation." This documents both good and bad safety performance and this feedback will be used in the decision process for awarding future contracts.

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## 2.0 GENERAL SAFETY REQUIREMENTS

### 2.1 Introduction

1. All contractors are required to comply with the requirements of the Occupational Safety Administration (OSHA), all other applicable federal, state, and local laws, ordinances, regulations, and other project and site-specific permits unless superseded by National Grid procedures.
2. This document represents policies and safety-related work methods that are unique to National Grid and that may go beyond OSHA rules. Contractors must follow these requirements as well as their own rules that meet or exceed OSHA and other regulatory requirements.
3. In cases where there is more than one method of compliance with a given safety rule or regulation, the contractor may deviate from National Grid practices if they can demonstrate to National Grid that the alternative practice provides an equal or greater margin of safety.
4. National Grid will provide more detailed information and guidance regarding specific procedures prior to commencement of work.

### 2.2 Applicability

1. This document applies to all contractors; however, most of the requirements are directed to contractors who perform work that is related to National Grid's core business functions: electrical transmission and distribution, and gas/LNG operations.
2. **In any contracted task, if a safety observer is required, it is the responsibility of the contractor to provide that person and insure the he/she is qualified to perform the role when needed.**
3. **When extension ladders are needed for any work a 4-1 pitch will be maintained and 3 points of contact will be maintained. If both hands are needed, a body belt can be utilized on a secure ladder.**
4. **Although not preferred, if hard hats are worn backwards, the suspension adjuster must always face the rear. Class E hard hats are required for all electrical work.**

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**5. 20KV EH overshoes are required when:**

- ❖ **Workers on the ground are working within 50' of the master ground connection point to earth.**
- ❖ **Operating a wire trailer and pulling/tensioning machine.**
- ❖ **When contact with a winch truck or reel trailer that that is operating its pay out in the energized area.**
- ❖ **When hand digging in close proximity to energized cables within the tolerance zone.**
- ❖ **When making repairs in a trench to a faulted primary cable without de-energizing the adjacent energized primary cables in close proximity.**
- ❖ **When using approved live line tools to move energized primary cables in a trench.**
- ❖ **If removing UG cable rubber covering or arc suppression blankets from an energized cable.**
- ❖ **When working within MAD of downed electrical wires or foot patrolling for such wires.**
- ❖ **If setting poles and using truck controls from the ground.**

**6. Although National Grid is not requiring their load securement requirements to be followed by contractors it is expected that all loads will be secured in accordance with DOT requirements.**

- ❖ **As of January 2004, the Federal Motor Carrier Safety Administration (FMCSA) within the U.S. DOT published Cargo Securement Rules 393.100-136 Subpart I – Protection Against Shifting and Falling Cargo.**
- ❖ **Given the nature of National Grid's electric and gas operations, cargo securement is an integral aspect of routine work performed throughout our territory.**

**7. Chaps are required to be worn by ANY person using a chainsaw to make a cut on the ground or assisting in that cut and within striking distance.**



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### 3.0 ADMINISTRATIVE SAFETY REQUIREMENTS

#### 31 Pre-Bid Meetings

*Applies to: All contractors, as needed.*

The pre-bid meeting is coordinated by National Grid Procurement to provide bidders with an opportunity to acquaint themselves with contractual requirements and specific safety issues concerning the project, including company-specific safety rules and known site conditions. This meeting may not be necessary for all contractors.

#### 3.2 Project **Health & Safety Plan (HASP)**

*Applies to: High and medium risk ranked contractors in detail commensurate with the scope of the project or activities.*

1. Contractors who perform high risk-ranked services shall submit a project-specific safety plan prior to the start of the project and/or at pre-construction meeting. Your National Grid representative will provide you with specific requirements of the format and/or forms to be completed.
2. **For typical work that can be completed in 1-2 days, a documented job brief will be sufficient to address the hazards and proper mitigations**
3. **Work that will last 3-5 days** will require a completed safety hazards checklist and the Emergency Contact Sheet. **If a section of this list is selected as a hazard, than the proper mitigation will be listed in the expandable box below that section.** This minimum safety plan shall be referred to as the SHORT VERSION.
4. **For long-term work that will take 6 days or longer**, or complicated projects, the National Grid representative will require the contractor to complete a more formalized safety plan. This plan shall be referred to as the LONG VERSION.

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5. At a minimum, the LONG VERSION safety plan shall include the following elements:
- A. Roles and responsibilities
  - B. Scope of work
  - C. Task and hazard identification and risk assessment of the hazards
  - D. Hazard mitigation/control procedures and work methods
  - E. Incident analysis and reporting
  - F. Compliance and monitoring

**Any HASP completed long or short will be reviewed with every worker that needs to follow it and they will sign on that they understand it. This document will be on the job for review as needed and if requested by the National Grid representative.**

**A. Roles and Responsibilities**

The plan shall identify who will be responsible for the project oversight and their qualifications. For example, if the work requires excavation, there must be someone on-site who would be qualified as a competent person.

For multi-employer work-sites, the general contractor is responsible for all their employees and subcontractors. The safety plan shall clearly state this responsibility.

**Contractors must participate in or conduct one of the following types of phase if requested for their work:**

**HazOp, HazId, What if, or FMEA**

**Whoever is leading any requested PHA needs to be competent in the methodology to ensure a quality product. National Grid will not train contractors in how to perform the pha.**

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## B. Scope of Work

Briefly state the scope of work as provided by National Grid **with enough detail that an auditor or someone not familiar with the contract could understand the task being performed.** The plan must specifically address the project or services requested by National Grid. Therefore, these plans should be short and-to the-point.

## C. Task and Hazard Identification and Risk Assessment

The contractor shall identify all significant tasks and the anticipated hazards. National Grid calls this process a risk assessment.

The contractor's cost to provide adequate safety measures and to comply with National Grid requirements must be considered and budgeted in the bid/proposal.

## D. Hazard Mitigation Procedures and Work Methods

For each hazard, the contractor shall specify measures that will be taken to mitigate these hazards.

A table format is the simplest way to organize and present the task, hazard, and mitigation steps. For example:

Location: Substation Yard		
Task	Hazard	Mitigation Steps
Material Handling	Contact with overhead energized lines/equipment	Off load in the clear and have a safety observer present

## E. Incident Analysis and Reporting

Follow the requirements referenced in this document.

## F. Compliance Monitoring

Explain how you will ensure that both your employees and subcontractors will achieve safety compliance. **Jobs with over 100 workers at any point in time or in excess of \$1 million will require a full time safety representative hired by the contractor on site anytime work is to be performed. Qualifications of this safety representative must be acceptable to National Grid prior to hire.**

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### G. Environmental Compliance

Based on the scope of the work, any anticipated environmental risks shall be addressed by following all applicable National Grid procedures. Refer to EP-6, Appendix-A, environmental checklist.

#### 3.3 Contractor Orientation

*Applies to: All contractors, as needed.*

1. Contractor orientation **may** be conducted by a National Grid Representative and is intended to serve as a resource in order to provide the contractor with the tools necessary to educate their employees and subcontractors. The session is not intended to train the contractor management, their employees, or subcontractor
2. The extent and content of the orientation session shall be commensurate with the scope and type of the contractor's activities. **Our history working with the particular contractor will also be considered.**
3. **The orientation given to all contractors shall include as a minimum and is not limited to the following, OSHA 10, Electric Hazard Awareness, Safe Driving and Vehicle Operation, Ethical Business Behaviors, Permission to Work (on the NG Electric System – C&C), Dig Safe requirements, understanding HASP's, Insulate and Isolating techniques, Incident Reporting and Analysis requirements, written Job Briefs, Load Securement, Safety Observation, Hoisting and Rigging, Trenching and Shoring, and working near Railroads, Highways and Gas lines.**

**Contractors shall keep a record of the orientation delivered to all new employees and made available to NG upon request**

**An "On Boarding" CD is available upon request. The CD features best practices learned through incident reporting, Near miss conditions and safety related policies and procedures.**

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4. The contractor shall agree to provide management representation at the orientation session.
5. After **being provided this document and the** completion of **any** orientation session **offered**, a contractor management official shall certify in writing that: (1) the contractor has been informed of National Grid safety requirements; (2) that employees and subcontractors have the appropriate qualifications to perform the work, and; (3) the contractor agrees to comply with all applicable safety requirements. The certification shall be in the form of a "Letter of Assurance", **printed on the contractor's letterhead**, signed by a principal of the contractor, and delivered to your company's National Grid contact or ISNetworld participants will upload this letter into ISNetworld to meet this requirement.

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### 3.4 Worker Qualification Assurance

*Applies to: All contractors, as-needed.*

1. In order to meet National Grid safety requirements, the contractor must describe how workers, including subcontractors, are qualified. The contractor must supply information concerning the type of skills assessment performed, training programs and how they ensure that employees demonstrate competencies. National Grid reserves the right to certify contractor competency as needed.
2. The contractor management official shall certify the contractor has been informed of National Grid safety requirements; that employees and subcontractors have the appropriate qualifications to perform the work, and; that the contractor agrees to comply with all applicable safety requirements by certification in a Letter of Assurance as referenced in section 3.3.4.
3. The bidder shall supply the backgrounds and qualifications for all management personnel through resumes, behavioral observations or other documents. National Grid shall interview and approve management personnel if considered necessary.
4. Contractors bidding on new work provide this information to the National Grid purchasing agent via the "Bidder Information Request" form and/or ISNetworld National Grid On-boarding form.

### 3.5 Pre-Construction Meetings

*Applies to: High Risk Ranked Projects or Activities*

1. The project manager, and/or National Grid Construction supervisor, or other designated User's Representative shall hold a pre-construction (project kickoff) meeting prior to the start of a high risk-ranked project/service. Other attendees may include; the Safety department, environmental as well as contractor management as needed.
2. The contractor's Project **Health &** Safety Plan will be discussed at this meeting including a final review of the safety hazards checklist to insure a proper hazard mitigation plan.

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3. These hazard mitigation measures shall be reviewed and work shall not commence until these hazards have been adequately addressed. The Owners Representative, or other user representative, will discuss with the contractor the methods by which compliance will be achieved with National Grid safety requirements.
4. An Emergency Call List should be exchanged with the contractor. This list must contain 24-hour contact information for key contractor and project personnel, including Owners Representative and Safety Specialists. This list should be distributed to all concerned, as determined by the project team, prior to the start of work.
5. For routine maintenance services, a review of associated safety issues and specific facility issues, restrictions or practices, such as evacuation procedures, must be discussed with the contractor upon initial hiring. Any changes in the facility that may affect the safety of contractor or National Grid employees or third parties must be communicated immediately.

### 3.6 Safety Meetings

*Applies to: All contractors, as-needed.*

1. The contractor shall have regular monthly safety meetings with documented attendance of their employees and subcontractors.
2. The safety meetings shall be documented in writing. **This document shall include topics, statistics, and updates on old business as well as new business raised. It will include the round table discussion by the workers and the actions on issues raised. This document will show who is responsible for actions developed and when they are due and when they are closed out as being completed. This** shall be available for inspection during the project period, and for 30 days after the project is completed.
3. **Weekly safety briefs to review recent incidents on the site or within the industry are recommended but not required. Attendance is not required for these, but it is recommended that these be conducted weekly to share safety reminders or incidents,**
4. **Weekly safety meetings/calls between National Grid and contractor management are required for all high-risk work. These meetings shall focus purely on safety.**

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### 3.7 Job Safety Briefs

*Applies to: All contractors, **as-needed**.*

1. Job safety briefs shall be documented in writing. Written job safety briefs with the contractor letterhead, shall be available at the job site for inspection and retained for 30 days after the job is completed.
2. Each crew shall conduct these job safety briefs prior to each day's work **at the job location**, when there are changes to the **days work order or plan**, and when a new worker or **company** joins the crew additional briefs are required.
3. Each worker must have the opportunity to voice concern. The work cannot begin until each worker signs off on the job safety brief stating that they have discussed the work, **raised any questions**, and agree with the plan.
4. **Visitors to the work site will be asked to read and sign the job brief acknowledging they understand contents. If a visitor refuses to sign, the general foreman will note it on the brief and will not allow the visitor to enter.**
5. **SITE SIGNAGE will be required to be posted at the main entrance to each work site. The sign shall direct all visitors to check in with the Person In Charge (PIC), be escorted to a reception area and advised of all work currently in progress. The visitor is expected to comply with all related safety requirements and sign off on the Job Brief before entering the work site.**



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### 3.8 Incident Analysis

*Applies to: All contractors (regardless of risk ranking).*

1. All contractors are required to report to National Grid, any work-related incidents involving injury or illness to employees, the public or property damage to the contractor's or National Grid's equipment. The first priority is to ensure that the injured receive medical treatment.
2. Your National Grid contact will explain these reporting requirements in more detail prior to commencement of work.
3. An incident is defined as an unplanned event that has a human component, and results in, or could potentially result in, at least one of the following outcomes: (1) Harm to people; (2) Damage to property; (3) Adverse public impact.

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Categories of incidents include:

1. **Injury** – incidents that cause harm to people;
2. **Property Damage** – incidents that cause damage to property;
3. **Adverse Public Impact** – incidents that disrupts service to the public or results in adverse public reaction;
4. **Near-Miss** – an incident which had the potential under different circumstances to result in an injury.
5. A **hazardous condition** is defined as: A condition that can and is rectified immediately by the person who identified the hazard
6. A **Significant hazard**: A condition that requires others to take actions to rectify and requires further investigation as to how the situation came to occur.
7. **Process Safety** – measures, systems, procedures and policies which prevent incidents and protect employees, the public, and the environment from the effects of major accidents.
8. **Road Traffic Collision (RTC) – A moving motor vehicle incident with any vehicle other than one that measures hours instead of mileage.**

### Incident Response Steps

In the event of an incident, the contractor shall provide details of the incident to National Grid that follows the steps below.

1. Contractor supervisor collects basic information about the incident from the employee or witnesses:
  1. What happened?
  2. Who and how many people were injured?
  3. What treatment was administered?
  4. What was the nature and seriousness of the injury?
  5. Where did the incident occur?
  6. When did the incident occur (date, time of day)?
  7. Were there any witnesses?

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2. Contractor supervisor immediately calls the Owners Representative or National Grid point of contact. All incidents **should shall** be entered into the IMS as soon as possible by the National Grid supervisor or National Grid Designee. **If any calls to (1-866-322-5594) are made, user will be prompted to select option 2 for anything other than an employee injury.**
3. Contractor shall conduct an investigation and provide a written report if directed to do so by National Grid to the Owners Representative for review and entry into the incident management system (IMS).
4. The contractor will then conduct an investigation that will identify contributing factors relating to the incident and the corrective actions that will be taken to prevent reoccurrence. The contractor will notify the Owners Representative when any action items have been completed. The results of the IA shall be described in a report prepared by the contractor and provided to National Grid. The contractor shall use National Grid Incident Reporting forms which will be provided by your National Grid Representative.
5. Contractor vehicle accidents occurring during the performance of work will also be investigated and reported to National Grid.

### **Other Reporting**

National Grid may periodically request the following annualized data for all work activities limited to National Grid operations:

- Lost Time Incident (LTI) rate for workers
- Restricted Work rate
- OSHA Recordable Incident (ORI) rate

## **4.0 TECHNICAL SAFETY REQUIREMENTS**

### **41 Personal Protective Equipment (PPE) Requirements – General**

*Applies to: All contractors (regardless of risk ranking)*

1. Basic PPE attire at construction sites and other similar work zones include, at a minimum: hard hat; safety shoes and safety glasses.

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2. The contractor shall ensure that their employees and subcontractors use protective safety toe footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, **and where such employee's feet are exposed to electrical hazards.** Electrical Hazard (EH) rated footwear is required when working on or **near (within MAD) around** electrical equipment over 50 volts, or in an area of expected downed wires. This requirement is based on OSHA 1910.136 and ASTM standard F-2413-05.
3. Guidance for additional PPE is referenced in other sections of this document.

#### 4.2 Flame Resistant Clothing Requirements

*Applies to: All contractors, as-needed.*

1. Flame Resistant (FR) clothing shall be worn when personnel work on energized equipment/lines or when distance and position will expose the worker to electric arc or flame hazards. FR clothing shall also be worn during live gas work as outlined in the **gas PPE Matrix**. FR clothing also includes arc-resistant rain gear. This additional ensemble may also be required as part of the job.
2. FR clothing must be worn as the outermost layer of clothing.
3. FR clothing shall be worn when workers measure voltages or test or ground electrical equipment or lines.
4. FR clothing shall be worn when work requires the use of rubber protective equipment or the use of insulated live line tools.
5. FR clothing shall be worn when workers control/operate electrical equipment over 50 volts at the device location or are within 10 feet of equipment which is being physically operated **or worked on** by another worker.
6. **FR clothing shall be worn where a hazard identification sign is posted.**

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7. Contractors shall wear the appropriate FR clothing when working on or near energized equipment or when distance and position will expose the contractor to electric arc or flame hazards. For substations and production plants, visitors are not required to wear FR clothing unless they are engaged in electrical work. Your National Grid contact will be able to determine whether FR clothing will be required based on the specific contractor task. Note: Gas contractor FR requirements may differ slightly. Please refer to National Grid PPE Matrix for Gas operations as needed.
8. FR clothing shall meet a minimum arc rating of 8 cal/cm<sup>2</sup> (HRC 2) for energized electrical equipment unless otherwise specified based on increased potential exposure. **Effective April 1, 2010**, The FR clothing system for HRC 2 shall consist of an arc-rated FR shirt and FR pants or an FR coverall. Note: Work on the Long Island electric system will require FR pants rated at 8 cal/cm<sup>2</sup> (HRC 2) and FR shirt rated at 4 cal/cm<sup>2</sup> (HRC 1) based on assessments performed to determine potential exposures.
9. Additional FR clothing protection is required when performing work on the distribution system in NY North and New England (legacy National Grid) stations listed in Table 2 - OH Distribution Exceptions. Please reference tables in the National Grid Safety Document titled, *ARC Flash Analysis and Mitigation*, Overhead Distribution Exceptions to 8 cal/cm<sup>2</sup> FR.
10. Contractors who may be involved with tasks requiring the implementation of this program shall be informed by National Grid. Contractors will be required to follow all aspects of OSHA and The National Electric Safety Code (NESC), Rule 410 A3 as it applies to the tasks they perform.

#### 4.3 Rubber Gloves and Sleeves

*Applies to: All contractors, as-needed.*

- 1 Rubber glove use is required for work on all electrical apparatus at 50 Volts or greater. Rubber gloves shall be donned before the worker leaves the ground and shall be worn until the worker returns to the ground (commonly referred to as "ground to ground", "cradle to cradle").

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2. Class 0 gloves are required for exposures up to 1000 Volts.
3. Class 2 gloves are required for voltages between 1000-15,000 Volts.
4. Rubber sleeves must be worn where work is conducted within the minimum approach distances of primary electrical apparatus that is not tested de-energized and grounded.
5. For voltages 23 kV and above, workers can use specialized equipment or work practices as long as these workers have been appropriately trained and qualified. National Grid may request a letter of assurance from the contractor
6. Rubber glove exceptions for specific jobs (other than those listed in this section) are permitted only with the written approval of the local National Grid Operations Manager.
7. **It is the contractor's responsibility to wear class 2 rubber gloves when grounding trucks or equipment due to a possible difference in potential.**

**Exceptions (no gloves required)** No rubber gloves are required:

- When working in a properly established equipotential zone.
- When the operator remains at the same potential as the equipment by being off the ground and on the equipment.
- When a qualified worker performs transmission "hot stick" work on lines 69 kV or greater and no other energized wires are on the pole or structure below the worker.
- When work is performed on transmission structures carrying only energized conductors (115kV and above) and the Live Line Techniques are **not** being employed. While performing these activities, the worker shall utilize conductive clothing such as conductive gloves, conductive boots, leg straps and/or any other applicable conductive clothing.
- When climbing a steel structure to perform structural reinforcements while maintaining minimum approach distances from energized conductors or apparatus.
- When climbing a steel structure to access an area that has been properly grounded.

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#### 4.4 Isolation of Energized Apparatus

*Applies to: All contractors, as-needed.*

1. *Non-Reclosing Criteria and Live-Line Maintenance and Construction*

The appropriate interrupting devices (breakers, reclosers, circuit switches, etc.) will be placed on NON-RECLOSING in accordance with National Grid tagging procedures.

2. *Tagging Out Lines or Apparatus*

The Owners Representative or other designated representative shall coordinate all switching and tagging in accordance with the most current EOP on Clearance and Control.

**Upon receipt of Clearance, the Owners Representative will present the Contractors person in charge with the “Contractor Permission to Work Form”, which states the specific apparatus that has been de-energized and that certain device(s) are tagged in the Protective Position and will remain so until the Contractors person in charge informs the Owners Representative of the completion of the work utilizing the “Contractor Completion of Work” section of the “Contractor Permission to Work” form.**

**The original transferred copy needs to be returned after the completion of work section is filled out & signed. In some cases the tailboard is outside & is susceptible to elements & damage.**

**No work will be performed until the “Contractor Permission to Work Form” is received from the National Grid “Clearance Person” (Construction Supervisor) stating that the equipment has been de-energized and a clearance to work has been given. The Contractors Permission to Work Form shall be attached to the crews Job Briefing and be kept at the work location.**

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**After the “clearance” is received from the Grid representative, the various substation conductor bus and equipment to be worked will be tested and “Grounds” installed. Grounds shall be rated for the fault current of the line/equipment being grounded. (Note: Rubber Gloves and FR clothing are required when installing and removing grounds). The contractors “Person in Charge” (Construction Supervisor/General Foreman) shall be responsible for determining the location and number of grounds.**

**Vehicles and equipment may utilize a single 4/0 cu for grounding inside the substation. Employees working on de-energized lines and equipment shall always work between grounds.**

### *Grounding*

**Prior to the application of any personal protective grounds, the circuit to be worked on must be tested for the presence of voltage using an approved potential detector. The worker must verify the detector is in operating order prior to and after testing for voltage. Minimum approach distances must be maintained during the testing, and appropriate PPE shall be worn. Testing for voltage shall be done at the point where the grounding devices are to be attached. Test all phases of the circuit to be worked on. A test shall be conducted at each location that grounds are installed.**

When National Grid switches out lines or apparatus, any grounds that may be installed shall only be considered a visual reference, and shall not be considered a means to protect the Contractor's employees. The Contractor is responsible to install their personal grounds, in accordance with all OSHA, Federal, State and local safety procedures'. National Grid will provide guidance on the minimum size of the grounds to be used based on circuit available fault current. *Refer to EOP D002*, for Grounding size. Ground rods will be fully driven into the earth **away from the workers and work area**. T-Bar ground rods are not to be used on National Grid property.



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**The Clearance Person shall determine the required number and locations of grounds, insuring that work performed is between grounds, covering all potential sources. All three phases shall be grounded. (In stations, from each phase to the station ground grid). Grounds shall be placed as close to the work area as reasonably possible. Grounds shall be placed between the work area and all possible sources of inadvertent energization.**

**It is the contractor's responsibility to account for all their grounds and it is recommended that a ground cable tagging device be developed and utilized.**

3. *Grounding Mobile Equipment*

When mobile equipment requires grounding, it shall be solidly grounded by means of appropriate sized copper cable **while using rubber gloves**. The cable shall be fastened to a securely attached clean metallic portion of the equipment, or shall be fastened to a grounding stud provided for the purpose at one end and an adequate ground at the other end.

**Non insulated booms such as digger derricks that have the possibility of encroaching MAD shall be grounded and barricaded. The ground is to trip the circuit and the barricade is to protect those that could touch the truck during this energization and hopeful tripping of the circuit.**

4. *Minimum Approach Distance (MAD)*

Follow minimum approach distance (MAD) tables: clearance OSHA tables' unqualified distances are 10 feet and up depending on voltage. See section 4.7

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#### 4.5 Appointment of a Safety Observer

*Applies to: All contractors, as-needed.*

1. If work is being performed where there is a potential for persons or equipment to come in contact with energized equipment, a Safety Observer will be appointed by the contractor to aid in protecting employees and others from hazards. The Safety Observer will be a "Qualified Electrical Worker" with the training and experience specified in OSHA regulations, specifically the "Electric Power Generation, Transmission and Distribution Standard" 29 CFR 1910.269.
2. The Safety Observer will be appointed while positioning trucks, cranes or other equipment and where precise placement is required to avoid contact with or damage to existing equipment or circuits; while moving loads overhead that may come within OSHA clearance requirements; or at other times where assistance is needed to help direct specific tasks for the protection of personnel or property.

#### 4.6 Work Zone Traffic Control

*Applies to: All contractors, as needed.*

1. If work activity is on or near a road, the contractor and their subcontractors will comply with all applicable parts of the most current US Department of Transportation's Manual on Uniform Traffic Control Devices (MUTCD).
2. If working in areas covered by state permits issued to National Grid, contractors are required to comply with the provisions (work practices and notifications) of the permit language. **These permits must be available on the job site upon request.**

#### 4.7 Qualified Electrical Workers

*Applies to: Electrical Projects/Activities.*

1. National Grid expects that electrical contractor employees will already be electrically-qualified as required by OSHA in 29 CFR 1910.269.

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2. OSHA defines a qualified electrical worker or “qualified employee” as a person knowledgeable in the construction and operation of the electrical power generation, transmission and distribution equipment involved and the associated hazards. According to 1910.269(a)(2)(ii), a qualified employee must be trained and competent in:
- The skills and techniques necessary to distinguish exposed live parts of electrical equipment;
  - The skills and techniques necessary to determine the nominal voltage of exposed live parts;
  - The minimum approach distances specified in 1910.269 corresponding to the voltages to which the qualified employee will be exposed, and;
  - The proper use of special precautionary techniques, personal protective equipment, insulating and shielding materials, and insulated tools for working on or near exposed energized parts of electrical equipment.
3. Until these qualified employees have demonstrated proficiency in the work practices involved, they are considered to be employees undergoing on-the-job training and must be under the direct supervision of a qualified person at all times. According to the definition of a “qualified employee”, the employee also must have demonstrated an ability to perform work safely at his or her level of training.
4. National Grid requires contractors with electrically qualified employees to provide documentation on how they qualify their workers.

#### **48 Qualifying Non-Electrical Workers**

*Applies to: All contractors, as-needed. (Examples: Tower painters, rock drillers, swamp matt installers, Core sample drillers, ect)*

##### Qualifying non-electrical workers to work near energized lines and equipment

1. The contractor must provide orientation for non-electrical workers for the purpose of entering and working within restricted areas such as a substation. This is a critical component of contractor orientation for all non-electrical contractors who will be working near energized lines and equipment (for example, civil contractors).

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2. The information provided to these workers must meet the requirements of paragraph 1910.269(a)(2)(ii). However, the orientation and training would not be as comprehensive as the training normally provided to a qualified electrical worker.

They must know:

- What is safe to touch and what is not safe to touch in the specific areas they will be entering;
- The maximum voltage of the area;
- The minimum approach distances for the maximum voltage within the area;
- Proper use of protective equipment that will be used to provide protection for them and in the work practices necessary for performing their specific work assignments within the area.

3. Until these workers have demonstrated proficiency in the work practices involved, they are considered to be employees undergoing on-the-job training and must be under the direct supervision of a qualified person at all times. According to the definition of a “qualified employee”, the employee also must have demonstrated an ability to perform work safely at his or her level of training. It is expected that an orientation familiarizing the employee with the safety fundamentals above will be conducted before the worker is allowed to enter a restricted area.

#### **4.9 Asbestos and Lead Hazards in Electrical & Gas**

*Applies to: All contractors, as-needed.*

1. Asbestos and lead materials associated with electrical and gas equipment includes, but is not limited to: cement-type cable covering, cable wrap, wire coatings, coal tar pipe wrap, and transite panels and conduits. Removal of this material must be done by individuals specifically trained and qualified to handle asbestos and lead. Refer to National Grid Safety Procedures, F-615, F-617 and F-619 for guidance on asbestos and lead handling and removals.
2. Where asbestos material is present and likely to be disturbed, the National Grid representative and contractor shall coordinate how the asbestos hazard will be managed.

**Note:** Electrical or gas contractors who will encounter asbestos or lead as part of their electrical or gas work shall reference in their safety plan how they will address this hazard.

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## 5.0 OVERHEAD LINE WORK

*Applies to: All contractors, as-needed.*

In addition to the other requirements referenced in this document, this section covers requirements that are specific to overhead line work.

### 5.1 PPE Requirements

*Applies to: All contractors, as-needed.*

1. All contractors shall comply with the applicable PPE and WZTC requirements referenced in Section 4.0. In addition, contractors will follow ground-to-ground and cradle-to-cradle use of rubber gloves while carrying out work on energized overhead lines; commonly referred to as "ground to ground", "cradle to cradle".
2. Any foreign wire constitutes a potential energized source and rubber gloves shall be required. Any foreign wire on a pole or structure constitutes an energized source: **Examples include:** Cable TV, telephone, fire alarm wire, etc.

### 5.2 Fall Protection

*Applies to: All contractors, as-needed.*

All contractors who climb structures such as wood poles or transmission towers shall utilize enhanced fall protection equipment and techniques. Enhanced fall protection means the use of a fall arresting device: examples include a *Buck-Squeeze*, *Miller Stop* fall or *Jelco* fall arrest systems. When working on wooden **and steel structures**, a full body harness and **either a Y lanyard such as** a Step Safe or Sheppard's Hook with retractable line **shall be used to provide 100% fall protection**. Climbers shall never be allowed to drop or slide down a pole or structure more than two feet. Fall protection or fall restriction devices shall be used when working at heights over 4 feet with the exception of ladder use.

Exceptions to fall protection shall be approved by the Owners Representative or by another qualified user representative.

### 5.3 Pole/Structure Inspection

*Applies to: All contractors, as-needed.*

1. Contractor shall ascertain the structural integrity of the pole or other structure prior to installation, removal, or repair of equipment on the structure.

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2. When work is to be performed on a wood pole, it is important to determine the condition of the pole before it is climbed. The weight of the employee, the weight of equipment being installed, and other working stresses (such as the removal or re-tensioning of conductors) can lead to the failure of a defective pole or one that is not designed to handle the additional stresses. For these reasons, it is essential that an inspection and test of the condition of a wood pole be performed before it is climbed.
3. If the pole is found to be unsafe to climb or to work from, it must be secured so that it does not fail while an employee is on it. The pole can be secured by a line truck boom, by ropes or guys, or by lashing a new pole alongside it. [29 CFR 1910.269(q)]

#### 5.4 Electrical Work Methods

1. Jumpers of any type shall not be used to keep transformers, Risers or transformer banks, energized for the purpose of changing potted porcelain cutouts. Refer to most current version of National Grid Electric Operation Procedure (EOP) D001 "Porcelain Fuse Cutout - Open Type."

**Potted porcelain cutouts must be changed out when work is being completed on a pole even if this is not planed in the scope of the work provided.**

**Properly rated and inspected slings, chains or tongs will be utilized to move poles and equipment. Winch lines must not be wrapped around poles or looped around transformers ears to lift without a sling or chain.**

#### 5.5 Transmission Overhead Lines

1. For work on transmission circuits, red tape shall be placed around any energized pole, pole structure, or tower adjacent to the de-energized line on which work is to be done.
2. When one circuit of a double circuit pole or tower line is de-energized for work, a red or orange flag shall be placed on the energized side of the pole or tower **nine feet** below the lowest energized conductor. In addition, on the side toward the energized circuit a red or orange flag shall be placed at each arm level as employees work on them, or pass them, on the tower cage.

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3. All contractors using ATV's, **UTV's or RTV's** for transmission or forestry work, are required to follow all local OHRV requirements for PPE and Driving safety. **They are also required to show proof of individual operator training certifications for each operator. DOT helmets and safety glasses or goggles for anything without a seatbelt and roll cage. Such equipment with a roll cage and seatbelt can utilize a hard hat and chin strap.**
4. **At the end of each day, unless other arrangements have been made for an extended outage, grounds will be removed and the National Grid representative will be notified that all personnel are "clear" of the conductor bus work and equipment.**
5. **Where ever transmission line workers "touch" wires, a personal ground shall be installed at the work area to establish an equipotential zone.**

## **6.0 UNDERGROUND OPERATIONS WORK** *Applies to: All contractors, as-needed*

In addition to the other requirements referenced in this document, this section covers requirements that are specific to underground operations work.

### **6.1 PPE Requirements** *Applies to: All contractors, as-needed.*

All contractors shall comply with the applicable PPE and WZTC requirements referenced in Section 4.6.

### **6.2 Enclosed Space Assessment and Ventilation**

*Applies to: All contractors, as-needed.*

1. The contractor shall test each space prior to removing manhole lids and entry in accordance with current National Grid enclosed space procedure. Refer to most current version of National Grid EOP-UG006.
2. Atmospheric testing must be continuous for the duration of the entry using an industry approved atmospheric tester.
3. When performing hot lead work or when indicated by atmospheric monitoring, engineering controls such as forced mechanical ventilation must be used when working in National Grid manholes during the entire performance of the work.

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### 6.3 Enclosed Space Entry and Non-Entry Rescue

*Applies to: All contractors, as-needed.*

1. All manhole and sidewalk vault entry shall be conducted in accordance with National Grid enclosed space procedures. Refer to most current version of *National Grid Safety Procedure, I-902*.
2. All contractors who are qualified electrical workers will treat these spaces as “enclosed spaces” and follow non-entry rescue provisions.
3. **In some situations a boom is allowed for retraction from an enclosed space per the National Grid EOP.**
4. Steel cable or wire rope for non-entry rescue is prohibited.

### 6.4 Equipment Safety Inspection *Applies to: All contractors, as-*

*needed.*

1. Inspect underground facilities (manholes, vaults, hand holes, splice boxes, junction boxes, padmount transformers, switchgear and submersible equipment) each time a crew performs work at one of these facilities. All separable components in these facilities are to be inspected by infrared instrumentation. Refer to most current version of National Grid EOP-UG001.
2. The infrared (IR) equipment shall be a Fluke 68 IR Thermometer. Current operating procedures are referenced in NG-USA EOP-001.
3. The format for data collected shall follow the National Grid Electrical Operating Procedure (EOP) NG- EOP UG006 entitled “Underground Inspection and Maintenance.”
4. “Touch Potential” testing of metal street lighting poles is required to be performed as a part of any maintenance work. References include NG- EOP G016 and National Grid Work Methods Bulletin #04-26 “TOUCH POTENTIAL TESTING OF METAL STREET LIGHTING POLES.”
5. Touch Potential testing results shall be recorded on the job safety brief and manhole inspection form which shall be given to the Owners Representative or designee and sent to the inspections department personnel.



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6. All contractors working for National Grid shall use materials and equipment in accordance with the manufacturing guidelines. It is the contractors' responsibility to understand the manufacturers' limits and prescribed use of their tools and equipment before each use.
7. **Workers will test UG cable de-energized and gulliten the cable if need from outside the hole with rubber gloves in use at all times.**

## **7.0 SUBSTATIONS** *Applies to: All contractors, as-needed.*

In addition to the other requirements referenced in this document, this section covers requirements that are specific to substations work.

**See separately issued NG Substation Maintenance Procedure SMP 499.01.2 for specifics regarding substation grounding practices.**

**Grounding plans for substation work as well as major distribution and transmission projects will be submitted to NGRID a minimum of 1 week prior to construction for review. This plan will show the steps, work area limits and ground cable size and amount. Once reviewed with the NGRID construction supervisor this plan will be reviewed with all working the job prior to the start by the contractor.**

**Use of an "Equipotential" step/platform or a conductive mat is required for access and egress from the crane or any other equipment, including aerial lift equipment that is connected to the substation ground grid and/or bonded to transmission line conductors when working outside of the station fence, in the ROW and area's inside the substation where there is no ground grid present. When work is performed inside the substation and there is a ground grid available, the "Equipotential" step/platform or conductive mat is not necessary.**

**All vehicles must be grounded and barricaded per OSHA standards.**

**Proper clearances shall be maintained from adjacent energized substation bus, energized portions of substation equipment and other transmission lines at all times.**

**Use of proper insulated tooling (shotguns and sticks) will be utilized per NECA standard maintaining minimum approach distances.**

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## 7.1 PPE Requirements

*Applies to: All contractors, as-needed.*

1. All contractors shall comply with the applicable PPE and WZTC requirements referenced in Section 4.0.
2. Contractors will wear an electrical flash PPE ensemble when switching disconnects or grounding in areas of indoor substations as Referenced in the *ARC Flash Analysis and Mitigation Policy*.
3. Fall protection or fall restriction devices shall be used when working at heights over 4 feet with the exception of ladder use.
4. Rubber gloves and Fire Resistant clothing are required when hand digging in a substation in or around energized conductors and shall meet the requirements referenced in section 4.2 for FR clothing.
5. Contractors who perform any ground breaking activities in a substation within a pre-marked area will require Dig Safe marks to be in place; otherwise, the job must be suspended and a National Grid contact notified of the condition.
6. When using non-insulated man-lifts, and if provided by the manufacturer, a secure point of attachment for lifelines, or lanyards or deceleration devices, shall be utilized which is independent of the means of supporting or suspending the employee. **Workers feet will always remain on the floor.**

## 7.2 Notification of Control Authority When Entering a Substation

*Applies to: All contractors, as-needed.*

1. When a contractor enters and exits a National Grid substation, the contractor will ensure that the System Control Center is notified. While work is being conducted, gates must be monitored at all times or the gates shall be locked. Refer to National Grid EOPG022.
2. Unescorted entry in substations can only be provided to contractors who provide assurance that their employees and subcontractors are electrically qualified as specified in 29 CFR 1910.269. Refer to Section 4.0 of this document

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**7.3 Substation Work Area Identification (SWAI) *Applies to: All contractors, as-needed.***

1. Contractors who will be working in substations shall follow the SWAI procedure. National Grid will provide a copy of this procedure if required by the project. Refer to most current version of National Grid SMP499.10.2.
2. Qualified contractors as referenced in section 4.7 of this document shall install their own work area identification. National Grid shall arrange work area identification for non-qualified workers as required.
- 3. Designated storage areas will be posted in the yard and should be the only place items not being used that day are stored until needed.**

**7.4 Herbicide Application *Applies to: All contractors, as-needed.***

1. Substation vegetation spraying shall be conducted unescorted only by contractor employees who have been designated as a Qualified Electrical Worker where applicable.
2. The spray applicator will have ID cards issued by Security with background checks available from the contractor.
3. Substations and Production plant management shall require a schedule of the spraying in their areas.
4. Once spraying begins, the contractor must contact local management on a daily basis to inform them of progress or changes to the schedule.
5. The contractor must post all stations with dated signs indicating when the station was sprayed. These signs should not inhibit access to the station.
6. The contractor shall take care to prevent that any stored materials and equipment do not get covered with "overspray". Overspray represents a substantial safety hazard and cannot be allowed.
7. When applying herbicides, contract employees shall wear goggles and other appropriate PPE to protect them from contact with herbicides in accordance with product labels.

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## **8.0 GAS OPERATIONS WORK** *Applies to: All contractors, as-needed.*

In addition to the other requirements referenced in this document, this section covers requirements that are specific to Gas operations work.

### **8.1 PPE Requirements** *Applies to: All contractors, as-needed.*

1. All contractors shall comply with the applicable PPE and WZTC requirements referenced in Section 4.0.
2. The contractor shall wear all appropriate PPE and Class 2 rubber gloves for personal protection when digging or probing near (2 feet) of known electrical conductors and when the location of energized conductors is unknown.

### **8.2 Gas Operations**

1. All contractors must meet the requirements of drug and alcohol testing in accordance with DOT Title 49 CFR Part 199.
2. Any contractor who performs covered tasks shall be operator qualified (OQ) as defined in the DOT Title 49 CFR, Subpart N and all applicable state requirements pursuant to the state the contractor is working in. Additionally any qualifications' of contractor personnel shall be in full accordance with the Company's Operator Qualification written plan, (OQ Plan) Refer to the most current list of covered tasks in accordance with National Grids' Operator Qualification Program and the Northeast Gas Association, (NGA).
3. The Operator Qualified status of contractor employees must be regularly updated and accessible via an on-line database by Company management. This listing must detail employees' current qualifications and current tasks to which they are qualified and the next recertification date and provide documentation and a letter of assurance on their qualified workers as referenced in section 3.4 of this document.
4. Contractor personnel involved with covered tasks may require certification by National Grid and an orientation of the involved tasks and National Grid Company standards. National Grid reserves the right to validate contractor qualifications prior to performing Live Gas work.
5. Atmospheres are to be tested with a properly calibrated Combustion Gas Indicator (CGI) or Gas Measurement Instrument (GMI) in accordance with National Grid excavation procedures as required.

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6. Each employee in an excavation shall be protected from cave-ins by an adequate protective system, such as sloping, benching or an appropriate shoring system. Refer to National Grid Safety Procedure, M-1301 on Excavations, Trenching and Shoring, for additional guidance.
7. At minimum, an approved 20lb. ABC type fire extinguisher must be at the worksite and readily available during all routine and live gas operations as conditions warrant.

## 9.0 FORESTRY AND VEGETATION MANAGEMENT

*Applies to: All contractors, as-needed.*

In addition to the other requirements referenced in this document, this section covers requirements that are specific to vegetation management work.

### 9.1 PPE Requirements

*Applies to: All contractors, as-needed.*

1. For work along roads and other areas of vehicular traffic, contractors shall wear high visibility clothing or vests as referenced in section 4.0 and in addition to other PPE appropriate to the work.
2. Flame Resistant Clothing is not required per the OSHA applicable Forestry standard. Forestry contractors must instead wear natural fiber clothing when working within 10 feet of energized equipment.
3. Forestry contractors must wear a properly adjusted full-body fall protection harness connected to an appropriate lanyard when working from an aerial lift. The lanyard must connect to an attachment anchored to either the boom or bucket mounting hardware. Attachment points anchored through only the fiberglass portion of the bucket are not acceptable.
4. Forestry contractors will be required to wear chaps while operating a chainsaw or when assisting and/or working in close proximity to a chainsaw that is being operated.
5. Saws shall not be left unattended with the engine running.
6. When a contractor employee carries a saw, the engine shall be off and/or covered or the saw shall be carried with the blade to the rear and locked.

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**7. Tree crews will not be allowed to fly their buckets in between the primary and secondary cables if MAD will be violated in process of doing so. In much of our construction, minimum approach distances can not be maintained and ducking down is not an option in avoiding inadvertent contact.**

## 9.2 Equipment and Work Methods

*Applies to: All contractors, as-needed.*

1. Forestry contractors will be required to utilize fiberglass sticks and stick saws for work around energized equipment and to test/document their integrity annually. Test results and expirations shall be available on each vehicle as needed.
2. Forestry contractors will be required to perform and document dielectric testing of all aerial units annually. Test results and expirations shall be available on each vehicle as needed.
3. For lump sum or unit price mileage trimming projects, a single foreman may supervise up to four (4) bucket trucks on the same project. However, in that case the minimum qualifications for the "lead" person on each of the other trucks shall be a Journeyman Tree Trimmer or equivalent (Qualified Line Clearance Tree Trimmer). At least one other employee on the truck shall be an OSHA defined, Qualified Line Clearance Tree Trimmer Trainee. For Upstate New York only, it is understood that a Qualified Line Clearance Tree Trimmer shall carry the title, wage and benefits as outlined in IBEW LU 1249's existing contract of a Journeyman Treeman and that a Qualified Line Clearance Tree Trimmer Trainee shall carry, at a minimum, the title, wage and benefits as outlined in IBEW LU 1249's existing contract of a Treeman Trainee, 2nd year.
4. By April 1st of each year, the contractor shall provide a list of employees that could reasonably be expected to work on National Grid property. This listing shall include:
  - identify the current pay classification of each employee,
  - the date of their progression to their current pay level,
  - the dates each employee completed each level of the contractor line clearance tree trimmers training program,
  - the dates each employee completed their required OSHA safety and other training, or retraining, including any annual refreshers,
  - the date each employee last demonstrated their tree rescue and climbing proficiency where applicable
  - the date each employee completed CPR and first aid training,

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- Identify each certified pesticide applicator, their certification number and category certified.

### 9.3 Training

*Applies to: All contractors, as-needed.*

1. Forestry contractor management will be required to attend safety council meetings hosted by National Grid as required. The contractor will ensure that all appropriate safety personnel for the National Grid territory are in attendance.
2. Forestry contractors shall implement and provide the required training and certification programs necessary to provide OSHA defined Qualified Line Clearance Tree Trimmers or Qualified Line Clearance Tree Trimmer Trainees. Forestry contractors will be required to provide an updated Health & Safety Plan (HASP) by April 1<sup>st</sup> of each year for all work being conducted at National Grid.
3. All contractors using ATV's for transmission or Forestry work, are required to follow all local OHRV requirements for PPE and Driving safety

### 9.4 Herbicide Applications

*Applies to: All contractors, as-needed.*

Forestry contractor requirements for vegetation spraying are referenced under the Substations Work section 7.4 of this document.

**A bump cap can be worn for this task that identifies the company and provides minor head protection at the same time from branches and the sun. Eye protection will be in accordance with the Chemical being used MSDS sheet which will be available on the job**

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## 10.0 EXPECTATIONS FOR SAFE VEHICLE OPERATION

*Applies to: All contractors who will drive regularly in delivery of service for National Grid*

- 10.1 Contractors are required to have a safe motor vehicle operation policy, and said policy must be communicated to their employees.**
- 10.2 Contractors are required to comply with the requirements of all federal, state and local regulations regarding safe motor vehicle operations.**
- 10.3 Contractors shall ensure that new and existing employees have valid Drivers Licenses in accordance with requirements of specific job duties and type of vehicles operated. Contractors must have acceptable driving records, and where their driving records are unacceptable, drivers shall not be permitted to drive on behalf of National Grid.**
- 10.4 Contractors shall provide vehicles in safe operating condition, in accordance with federal state and local regulations, with proper safety equipment as appropriate for the vehicle type and its intended use.**
- 10.5 Contractors shall track and evaluate their employees' vehicular accidents. Corrective actions, such as driver coaching, defensive driver training and medical/vision tests, should be applied where appropriate.**



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## 11.0 LNG/PROPANE PRODUCTION, TRANSPORT AND HANDLING

*Applies to: All contractors, as-needed*

In addition to the other requirements referenced in this document, this section covers requirements that are specific to LNG/Propane Production.

**11.1** Contractors who transport LNG/Propane at National Grid facilities are required to be certified in first aid/CPR and are required to complete frost-bite awareness training.

**11.2** Basic PPE attire at production sites and other similar work zones include, at a minimum: hard hat, safety shoes and safety glasses and is referenced in Section 4.0 of this document. National Grid retains the right to enhance PPE requirements as conditions warrant.

1. The use of additional PPE shall be based on the task performed and the PPE matrix for work in production plants.

**11.3** All personnel working at LNG plants will sign in and out of plants daily in the contractors log book. All other gas supply facilities require authorization under the Authorized National Grid Contractor Employee.

1. Prior to work beginning, trained plant personnel shall review and reissue as needed a work permit process which shall contain procedures which describe the work to be performed, valves and Lock-out/Tag-out numbers and valve locations. National Grid will provide a copy of this procedure if required by the project.

**11.4** National Grid expects contractors working at LNG and LP plants to meet the requirements of 49CFR 193 Subpart H for health, training or experience and/or any applicable National Grid procedures that supersede the above requirements'. Contractors shall provide documentation on their qualified workers, as referenced in section 3.4 of this document.

**11.5** All contractors must meet the requirements of drug & alcohol testing in accordance with 49CFR Part 199.

**11.6** All Contractor personnel performing work in LP plants must meet the requirements' of the National Fire Protection Association (NFPA), part 59.

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### 11.7 Herbicide Applications

*Applies to: All contractors, as-needed*

Contractor requirements for Production Station vegetation spraying are referenced under the Substations Work section 7.4 of this document.

## 12.0 ELECTRIC GENERATION

*Applies to: All contractors, as-needed*

In addition to the other requirements referenced in this document, this section covers requirements that are specific to Electric Generation.

### 12.1 PPE Requirements

Contract workers shall wear appropriate ear protection when working anywhere inside a generation plant and/or outside the plant where noise may be excessive. Acoustic barriers shall be maintained by the contractor as needed.

- 1 Safety shoes with a minimum height of six-inches are required in Generation plants.
- 2 FR Clothing-Contractors in Generation plants are required to wear 8-Cal clothing protection. For additional guidance refer to EGO-028 & EGO-029.

### 12.2 Training

1. Required training may include; PCB's, asbestos, mercury, confined space awareness and excavation competent person requirements. HAZCOM is required by contractors working in generation plants as applicable.
2. It is required for every contractor who works at a National Grid Generation Station, to attend an orientation regarding plant safety and as required, US Coast Guard Maritime Security (MARSEC) policies.

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### 12.3 Equipment & Excavations

1. All excavations shall be performed in accordance with EGO-0005 and National Grid Safety Procedure M-1301 on Excavations, Trenching and Shoring.
2. Gasoline and diesel powered fork trucks may NOT be used inside the plant or other enclosed facility. Only propane/electric fork trucks are permitted except where additional hazards may exist.
3. Operators of fork trucks must be qualified and have a FDNY Certificate of fitness when working within NYC limits.
4. All wood products necessary for the work must be made of flame retardant material.

### 12.4 Equipment Isolation

1. For isolation of hazardous energy sources while working in Generation plants, please refer to EGO-0010, *Control of Hazardous Energy Sources-Work Permit System*.

### 12.5 Herbicide Applications

*Applies to: All contractors, as-needed*

Contractor requirements for Generation Station vegetation spraying are referenced under the Substations Work section 7.4 of this document.

### 13.0 Civil Construction work

1. Crews that are performing Excavations will include an excavation log with their job brief that states the soil type, expected depth and length as well as final depth and length. All required steps need to prevent collapse will be documented on this form as well prior to entry.

### 14.0 Aviation work

- ❖ Helicopter Crews of two or more will perform a pre flight documented job brief.
- ❖ Helicopter work will require the use of aviation helmets for both the pilot as well as the passengers.
- ❖ Those who fly and ride in helicopters will be required to participate in the “flying in the wires environment training prior to flight.
- ❖ Helicopter pilots must have a minimum of 500 document hours of flying in the wires environment prior to flying for National Grid.

## Schedule F

# **Attachment B-2 – Contractor Information Sheet and Compliance Statement for Employee Background Check Requirements**

## **(National Grid Level 2 Baseline and Supplemental Requirements) 10-21-13**

The entity or entities engaged or to be engaged under this contract to perform services for National Grid are alluded to in this document as “Contractor.” The individuals who will perform work for National Grid under this contract, including employees, principals, sole proprietors, and contingent staff provided by the Contractor, are referred to as “Contractor Employees.”

Contractor must be able to evidence to National Grid or its agent that it has verified Contractor Employees’ identities and that all Contractor Employees are legally eligible to work in the country where the work is to be performed. National Grid requires that U.S. Contractors complete a Consent Based Social Security Number Verification (CBSV) on their Contractor Employees and match the results with other identification documents provided by their employees during their hiring practices. This represents a minimum background check requirement. Additional requirements listed below are required for National Grid Level 2 Baseline. Supplemental requirements may be deemed appropriate by National Grid or the Contractor or may be required by law, regulation, or other bodies having jurisdiction over the work of the Contractor. These background checks must be completed for all Contractor Employees before they begin work under the contract, whether brought on at the outset of a contract or at any other point in the contract term. If it is determined at any time that a Contractor Employee does not meet the background requirements or has falsified a document that is or was part of the background check, Contractor shall notify National Grid Security immediately. National Grid Security will determine if the Contractor Employee must be removed from the work and will notify Contractor in writing of its determination. Contractor must maintain a record of all background checks and correspondence with National Grid regarding background checks performed during the term of the contract and shall make all records and correspondence available to National Grid or its agent upon reasonable notice. National Grid or its agent may perform audits of Contractor’s background check records and all supporting documents concerning the background of any Contractor Employee performing work for National Grid. National Grid’s direct costs and the cost for any contracted audit services will be at the expense of National Grid. National Grid reserves the right to revise its requirements for Contractor Employee background checks during the contract term, which the Contractor must comply with. Any such revisions will be provided in writing. The Contractor may choose to not accept the revisions and renegotiate or terminate the contract.

## **Attachment B-2 – Contractor Information Sheet and Compliance Statement for Employee Background Check Requirements** (for National Grid Level 2 Baseline and Supplemental Requirements)

1. Contractor Company Information

Name: Borrego Solar Systems, Inc.  
Address 1: 360 22nd St  
Address 2: Suite 600  
City: Oakland State: CA ZIP: 94612

2. Who would you like National Grid to contact regarding questions on the information provided below?

Name: Muneet Chohan Telephone #: [REDACTED]  
Fax #: [REDACTED] E-Mail: [REDACTED]

3. Contractor certifies by signing and initialing below that it understands National Grid’s requirements for Contractor Employee background checks as defined in “National Grid Requirements for Contractor Employee Background Checks (For National Grid Level 2 Baseline & Supplemental Requirements)”, and that by engaging National Grid’s Approved Background Check Provider to perform checks on it’s employees, the following checks will performed:

Background Checks	Initial
a. Consent Based Social Security Number Verification (CBSV) and Identification Verification	MAH
b. I-9 and E-Verify to Determine Eligibility to Work in the Country	MAH
c. Social Security Trace	MAH
d. Seven-year Criminal History Background Checks by State and Federal Jurisdictions	MAH
e. Seven-year Sex Offender Registry Search	MAH
f. Seven-year Residential Address Verification (new hires)	MAH
g. Three-year Employment Verification (new hires)	MAH
h. Motor Vehicle Driving Record Check and Annual Reviews (if applicable)	MAH
i. Previously Terminated or Removed Workers	MAH
j. Supplemental Requirements as checked	MAH
k. Sub-Contractor Requirements	MAH

Mike Hall CEO  
4. Officer/Principal Name & Title

[Signature]  
Signature

5/2/14  
Date

**Instructions for completing Attachment B-2 – Contractor Information Sheet and Compliance Statement for Employee Background Check Requirements**

- Box 1 Name and mailing address of Company holding contract with National Grid
- Box 2 Name of your company representative and requested contact information that National Grid will contact to resolve any questions or issues relating to information provided on this submission
- Box 3 Your initials in the boxes (a-k) represent that these components of the background check will be completed pursuant to the requirements contained in Attachment A. Note: Components a-g are baseline requirements and must be completed for all Contractor Employees. Components h-k are supplemental as required by the nature of the work.
- Box 4 Must be completed and signed, acknowledging that the contractor company is in full compliance with these requirements, and dated by an appropriate contractor representative.