

DTE

Terms and Conditions for Services

TABLE OF CONTENTS

1.	DEFINITIONS	3
2.	CONTRACTOR RESPONSIBILITIES	3
3.	INDEPENDENT CONTRACTOR.....	3
4.	CONTRACTOR'S EMPLOYEES AND MANAGEMENT.....	4
5.	HIRING AND SUBCONTRACTING.....	4
6.	COOPERATION AND OTHER CONTRACTS.....	5
7.	MATERIALS AND EQUIPMENT	5
8.	WORK AREAS AND ACCESS.....	5
9.	SITE SERVICES AND FACILITIES.....	5
10.	USE OF COMPANY'S EQUIPMENT, PERSONNEL AND FACILITIES.....	5
11.	CLEANUP OF SITE.....	5
12.	SAFETY AND SECURITY	6
13.	REPORTING OF ACCIDENTS.....	6
14.	WORK DOCUMENTS	6
15.	CONTRACTOR SUBMITTALS.....	6
16.	ELECTRONIC SUBMISSIONS.....	6
17.	LINES, GRADES AND MONUMENTS	7
18.	SITE CONDITIONS	7
19.	INTERRUPTION OF SERVICES.....	7
20.	INSPECTION.....	7
21.	USE OF COMPLETED PORTIONS OF THE WORK.....	8
22.	LOSS OF OR DAMAGE TO WORK.....	8
23.	SCHEDULE AND PROGRESS	8
24.	CHANGES	9
25.	DELAYS.....	9
26.	SUSPENSION	9
27.	COMPANY'S RIGHT TO PERFORM THE WORK.....	10
28.	COMPANY'S RIGHT TO STOP THE WORK.....	10
29.	DISPUTE RESOLUTION.....	10
30.	LIENS	10
31.	PAYMENT	10
32.	GENERAL REPRESENTATIONS	11
33.	CONTRACTOR COVENANTS.....	11
34.	NUCLEAR POWER PLANT ADDITIONAL TERMS	11
35.	FEDERAL CONTRACTING REQUIREMENTS AND FOREIGN CORRUPT PRACTICES ACT	11
36.	U.S. DEPARTMENT OF TRANSPORTATION PIPELINE FACILITY REQUIREMENTS.....	11
37.	BACKGROUND INVESTIGATION REQUIREMENTS	12
38.	ENVIRONMENTAL COMPLIANCE.....	12
39.	CONFIDENTIALITY.....	13
40.	TAXES	13
41.	PERMITS.....	14
42.	INSURANCE.....	14
43.	INTELLECTUAL PROPERTY.....	14
44.	WARRANTY	14
45.	TERMINATION FOR CONVENIENCE.....	15
46.	TERMINATION FOR CAUSE	15
47.	INDEMNIFICATION.....	16
48.	LIQUIDATED DAMAGES	16
49.	LIMITATIONS OF LIABILITY.....	16
50.	SET OFF.....	16
51.	RECORDS AND AUDITS	17
52.	ASSIGNMENT	17
53.	FORCE MAJEURE	17
54.	NON-WAIVER	17
55.	NOTICES.....	17
56.	SAVING CLAUSE- INDEPENDENT TERMS	17
57.	SURVIVAL.....	17
58.	NON-EXCLUSIVITY	17
59.	CONSTRUCTION OF TERMS; SECTION HEADINGS	17
60.	GOVERNING LAW AND JURISDICTION	17
61.	ENTIRE AGREEMENT.....	17
	NUCLEAR TERMS SCHEDULE.....	19
	FEDERAL REQUIREMENTS SCHEDULE.....	21

USDOT PIPELINE FACILITY REQUIREMENTS SCHEDULE 22
 BACKGROUND INVESTIGATION REQUIREMENTS SCHEDULE 24
 EXHIBIT 1 – SALES & USE TAX AFFIDAVIT 25

TERMS AND CONDITIONS FOR SERVICES

1. DEFINITIONS

The following terms shall have the following meanings:

- A. “Agreement” means these Terms and Conditions, the document(s) issued by Company called the “Purchase Order” and/or “Contract”, and all of the documents listed in the Purchase Order and/or Contract that are specifically incorporated into this Agreement.
- B. “Change Order” means the document issued by the authorized Company Representative that modifies the Agreement and, where required by Company, is executed by Company and Contractor.
- C. “Company” means the DTE Energy Company entity stated on the first page of the Purchase Order and/or Contract.
- D. “Company Representative” means the Company representative(s) identified in a Purchase Order and/or Contract.
- E. “Contractor” means the person or legal entity with whom Company has entered into the Agreement.
- F. “Contractor Personnel” means Contractor’s employees, agents, Subcontractors and Suppliers (and their respective employees and agents), and any other personnel used by Contractor in performing Work under this Agreement.
- G. “Site” means the Company site or other specified location where the Work shall be performed.
- H. “Subcontractor” is any person or other entity doing any portion of the Work on behalf of Contractor. Except as set forth in Section 5, nothing in the Agreement shall create any contractual relationship between Company and any Subcontractor.
- I. “Supplier” is any person or other entity supplying material, equipment or goods in connection with the Work on behalf of Contractor. Except as set forth in Section 5, nothing in the Agreement shall create any contractual relationship between Company and any Supplier.
- J. “Third Party Work” means any original works of authorship or inventions or designs created or owned by a third party and used in performing any Work under this Agreement, as identified in writing in sufficient detail in the Agreement so as to distinguish such Work from Work Product developed or created under the Agreement.
- K. “Work” means the services and labor to be performed and equipment and materials to be furnished by Contractor to fulfill Contractor’s obligations under the Agreement, including all repairs or replacements under any warranty.
- L. “Work Documents” means all manuals, designs, specifications, technical descriptions, drawings, plans, specifications, reports, calculations, summaries and other items to be delivered by Contractor to Company pursuant to the Agreement.
- M. “Work Product” means all materials, notes, reports, documentation, computer programs in object code and fully-commented source code, literary works, graphical works, performances or displays and any derivatives, inventions, formulae, processes, machines, manufacturers, composition of matter devices or any portions thereof and Work Documents, and any improvements on any of them, prepared or developed by Contractor for Company in the performance of this Agreement.

2. CONTRACTOR RESPONSIBILITIES

- A. Contractor agrees to perform all services, furnish all labor, supervision, materials, equipment and tools and technical and professional services that are necessary or incidental to perform the Work and perform all other obligations described in the Agreement.
- B. Any rights of Company to inspect, reject, approve or otherwise oversee the Work and provisions regarding the conduct of the Work, including safety rules and practices, are for Company’s benefit only and do not relieve Contractor of its responsibilities.

3. INDEPENDENT CONTRACTOR

- A. Contractor and all its employees, Subcontractors and Suppliers are, with respect to Company, independent contractors. Contractor shall be solely responsible for the performance, general direction, supervision and efficient administration of the Work of Contractor Personnel.

B. Contractor shall be responsible for (1) payment of any and all wages, taxes, or benefits that are due and owing to its employees, (2) computation of compensation, unemployment compensation, overtime and fringe benefits and (3) performance of such other duties and obligations as are required to comply with all applicable federal, state and local laws, ordinances, rules and regulations.

4. CONTRACTOR'S EMPLOYEES AND MANAGEMENT

A. Contractor shall be solely responsible for and have control over the means, methods, techniques, sequences, procedures and coordination of all portions of the Work under this Agreement.

B. Contractor shall be solely responsible for the acts and omissions of Contractor Personnel.

C. Contractor Personnel working on Company premises shall comply with all Laws and applicable Company policies.

D. Contractor shall perform the Work diligently and maintain at all times a sufficient number of competent and highly skilled employees and supervisors to complete the Work timely, properly, and in a workmanlike manner in accordance with the highest industry standards. Unless specifically waived by Company, a competent Contractor's designated representative with authority to act for and bind Contractor shall be at the Site at all times during working hours to supervise the Work. Work shall be conducted in cooperation with Company's supervisors, engineers, or other Company employees and contractors in such manner that Company's operations shall not be interrupted unnecessarily.

E. At Company's request, Contractor shall remove any Contractor Personnel that Company deems incompetent, disorderly, insubordinate, careless or otherwise objectionable, without cause, at any time.

F. Contractor shall at all times maintain discipline, under established work rules and procedures, among its own and its Subcontractor's and Supplier's employees. Labor to be employed shall be such as to cause no conflict or interference with or between the various trades. Contractor shall be solely responsible for all agreements with labor for the Work (or for Contractor Personnel) and for the resolution of all labor problems or disputes. Contractor shall keep the Company and Company Representative fully informed of all developments in labor relations that affect or could affect the Work or the Site.

G. The Work is to be conducted in accordance with the standard work week of particular trade(s) involved or conditions of the labor agreements applicable to the Work on the basis of straight time, regular shift work, unless otherwise authorized by Company Representative. Contractor shall not pay wages, overtime rates, shift rates or any allowances including travel, subsistence and other fringe benefits, if any, in excess of those stated in the applicable labor agreements, or engage in practices which are not a part of terms and conditions of labor agreements, including a shortened work week, unless authorized by Company Representative.

H. Company may direct Contractor, whenever Company deems it necessary, to supply and furnish to Contractor Personnel Company approved identification badges, passes or both. Contractor shall not, in any event, admit to the Site any person who does not have proper credentials sufficient to establish that such person has a legitimate purpose for being on or about the Site.

I. Contractor's organization shall include professional management personnel (whose skills shall include engineering expertise and expertise in other disciplines associated with the Work) to support the Work and to interface with Company's management regarding labor relations, planning, scheduling, material quantity take-offs, estimating, quality control and technical matters.

J. Contractor shall take all reasonable and appropriate steps, including but not limited to, prompt initiation of legal proceedings, to end any illegal work stoppages, slowdowns or other labor disturbances, and if it fails to do so, it shall be liable for all damages incurred by Company as a result of such illegal labor disruptions.

5. HIRING AND SUBCONTRACTING

A. Contractor shall not hire aliens who are unauthorized or ineligible for U.S. employment at Contractor, pursuant to the Immigration and Nationality Act as amended (INA). Contractor shall comply with the INA verification and retention requirements for its employees hired after November 6, 1986, and with such other applicable requirements of employers as have been or will be issued, pursuant to the INA, or pursuant to the authority of the Department of Homeland Security and U.S. Citizenship and Immigration Services (USCIS) or their successors.

B. Contractor will not assign, delegate or subcontract any of its obligations or rights under the Agreement without the prior written consent of Company Representative. All consent shall be obtained prior to Contractor or Subcontractors performing any work. Any such assignment, delegation or subcontracting will be void if made without such notice and consent. Any assignment, delegation or subcontract shall not relieve Contractor of (1) its responsibility to complete the Work in accordance with the terms of this Agreement (2) its liability for any Work performed by its Subcontractors, employees or agents or (3) any other obligations owed by Contractor to Company.

C. Contractor shall incorporate the obligations of this Agreement into its respective subcontracts, agreements and purchase orders (a copy of which is to be submitted to Company upon request). Specifically, Contractor shall incorporate in to such agreements the right to assign to Company all of its Subcontractor, Supplier, equipment rental and/or other agreements applicable to the Work.

D. Company is the intended third party beneficiary of all contracts for design, engineering or consulting services, all trade contracts, subcontracts, purchase orders and other agreements between Contractor and third parties. Contractor shall fully defend, indemnify and hold Company harmless from all acts or omissions of all Subcontractors.

6. COOPERATION AND OTHER CONTRACTS

A. Company may undertake or award other contracts for work at the Site. Throughout the term of the Agreement, close cooperation between Company, Contractor and any other contractors and subcontractors performing any work is to be maintained in order to (1) avoid interference with the work of Company, other contractors, or with the operation or maintenance of Company's existing facilities, and (2) ensure that adequate safety precautions and protections are provided and utilized whenever appropriate. Contractor shall cooperate with Company to schedule its Work so as to avoid interference with the performance of work by other contractors, subcontractors or Company.

B. Contractor must anticipate that its Work may be interfered with or temporarily delayed from time to time on account of the concurrent performance of work by others. Company may require that certain facilities be used concurrently by Contractor and other persons or entities.

7. MATERIALS AND EQUIPMENT

A. Contractor shall receive, unload, store, warehouse, protect, handle and maintain all materials, tools and equipment whether supplied by it, Company or others for Contractor's use. Title to any and all materials and equipment to be incorporated into the Work shall pass to Company upon delivery to the Site and risk of loss to all equipment, materials and the Work shall remain with Contractor until the Work is accepted by Company.

B. Contractor agrees that the location and size of lay down areas are within Company's sole discretion and that Company's or another contractor's activities at the Site may limit the lay down area or areas available to Contractor.

8. WORK AREAS AND ACCESS

A. All areas at the Site shall be allocated and scheduled by Company. Contractor shall confine its office, shops, storage and equipment parking to the area assigned by Company.

B. Company's representatives and all duly authorized representatives of governmental agencies having jurisdiction over work areas or any part thereof shall at all reasonable times, for the purpose of determining compliance with Agreement or other requirements, have access to such areas and the premises used by Contractor.

9. SITE SERVICES AND FACILITIES

Contractor shall, unless otherwise specified in the Agreement, provide all ancillary facilities necessary for proper execution and completion of the Work. The term "ancillary facilities" means temporary construction facilities such as portable water, sanitary and storage facilities, heat and ventilation, telephone service, offices, warehouses and other ancillary supplies, materials and equipment necessary or appropriate for the conduct of the Work. Before erecting or otherwise installing such ancillary facilities, Contractor shall furnish Company, at its request, drawings and other information concerning such ancillary facilities.

10. USE OF COMPANY'S EQUIPMENT, PERSONNEL AND FACILITIES

A Contractor may request that Company make available to Contractor certain equipment and/or facilities and operators for the performance of the Work. If Company agrees, in its sole discretion, to such request, the equipment and/or facilities fees may be charged to Contractor at rates specified by Company and subject to such terms and conditions (which may be in addition to those set forth in this Agreement) as Company may require.

B. Contractor shall assure itself of the condition of such equipment and/or facilities before use and shall assume all risks and responsibilities in its use of the equipment and/or facilities. Contractor shall defend, indemnify and hold Company harmless against any damages or claims that may arise from such use. Before returning such equipment and/or facilities to Company, Contractor shall confirm that no part of the equipment and/or facilities loaned to Contractor has been over-stressed or damaged in any way.

C. In the event such equipment is furnished with an operator, it is understood that such operator shall perform the Work under the complete direction and control of Contractor and shall be considered Contractor's employee for all purposes other than the payment of wages, Worker's Compensation or other benefits provided directly by Company.

11. CLEANUP OF SITE

A. Contractor shall, at all times, keep its work areas and premises and access to such areas and premises in a neat, clean and safe condition. Unless otherwise specified, clean means "broom clean" and in the original condition found by Contractor. If Contractor fails to comply with any of the obligations of this section, the same may be accomplished by Company at Contractor's sole expense.

B. Upon completion of any portion of any Work, Contractor shall promptly remove all of its equipment, temporary structures, waste and surplus construction and other materials and ancillary facilities not to be used at or near the same location during later stages of Work. Upon completion of the Work and before final payment is made, Contractor shall, at its expense, satisfactorily dispose of all ancillary

facilities, rubbish waste, unused materials and other equipment and materials belonging to it or used in the performance of the Work, and Contractor shall leave the work areas and premises in a neat, clean and safe condition.

12. SAFETY AND SECURITY

A. Contractor shall take all necessary precautions for the protection of the health and safety of Contractor Personnel, Company, the public and other third parties and shall at all times comply with Company's health, safety and security rules and procedures applicable to the Work or the Site (which are subject to change from time-to-time). As required by the Agreement, Contractor shall comply with the DTE Energy Contractor Safety Standards and applicable Safety Handbooks.

B. Company may furnish security personnel at the Site to control access, patrol yards and buildings, maintain order, and enforce regulations. The presence or absence of such security personnel shall not modify the responsibility of Contractor for loss and/or damages to persons or property.

C. Certain items are prohibited from the Site under all conditions. These items include alcoholic beverages, controlled substances, drugs, firearms and hunting devices. Company security personnel may conduct periodic, random inspections of vehicles, lunch boxes, coolers, cartons or other containers brought on to the Site.

13. REPORTING OF ACCIDENTS

Contractor shall notify Company Representative and shall comply with the following telephone reporting procedure in the event that its employee(s) or its Subcontractor's or Supplier's employee(s) sustain a serious personal injury (any injury which requires admittance to a hospital) or a fatality occurs arising out of the Work performed under the Agreement.

1. Between the hours of 8:00 a.m. and 5:00 p.m. eastern time, Monday through Friday, the Legal Investigations Division of Company's Legal Department (313-235-7705) shall be notified immediately.

2. Between the hours of 5:00 p.m. and 8:00 a.m. eastern time, Monday through Friday, weekends and holidays, the Company switchboard (313-235-8000) shall be notified. In addition to this telephone reporting procedure, Contractor shall also submit to the Legal Investigations Division of Company's Legal Department a written follow-up accident report form (available from the Company Representative) within 24 hours after the occurrence, as well as a written accident report in all other cases requiring more than first aid treatment. Contractor shall also furnish Company with a copy of all claims submitted to its insurance companies.

14. WORK DOCUMENTS

Contractor shall deliver all Work Documents (or any portion thereof), to Company upon request or termination of this Agreement. All Work Documents or Work Product furnished by Contractor in connection with this Agreement are the property of Company and, notwithstanding any markings or notices to contrary included on such Work Documents or Work Product, there shall be no restrictions upon Company's use thereof.

15. CONTRACTOR SUBMITTALS

A. Contractor shall submit any Work Documents to Company for information, review, and approval in accordance with the requirements of the Agreement.

B. The requirement in clause A above that Contractor submit Work Documents to Company for review and approval means that before implementing the information contained in the documents, Contractor shall (1) submit copies of the documents required, (2) resolve any questions raised by Company's comments, (3) follow Company's instructions indicated on the documents, and (4) obtain Company's authorization to proceed. Work Documents shall be submitted on or before the dates required in the Agreement. Unless otherwise provided in the Agreement, Company shall complete its review of the documents within ten (10) days of their receipt. Company's review does not mean that a complete design and specification analysis has been or shall be performed. Authorization to proceed shall not constitute acceptance or approval by Company of design(s), detail(s), calculation(s), analysis(es), test method(s), or material developed or selected. Notwithstanding review by Company and Company's authorization to proceed, Contractor remains fully and completely responsible for complying with its obligations hereunder except to the extent Contractor follows Company's instructions pursuant to this clause B.

16. ELECTRONIC SUBMISSIONS

A. Contractor warrants that any software and related documentation in electronic form provided to Company shall not contain any computer code that would: (1) disable the software or impair its use or operation in any way based on the elapsing of a period of time, the exceeding of an authorized number of copies, users, or other relevant metric, or the advancement to a particular date or other numeral (referred to as "time bombs", "time locks", or "drop dead" devices); (2) permit Contractor or any third party to remotely, and without Company's knowledge or approval, access the software through a device such as those referred to as a "trap," "access code," or "trap door"; or (3) permit Contractor or any third party to track, monitor, or otherwise report on the use or operation of such software.

B. If such virus or other contaminant is brought into Company's computer environment, by or through Contractor, Contractor shall reimburse Company for all labor and material costs incurred by Company to identify, contain and correct the effects of such virus. The hourly rate paid by Contractor for the identification, containment and correction of the effects of such virus shall be at the prevailing hourly rate incurred by Company.

17. LINES, GRADES AND MONUMENTS

A. Contractor shall complete the layout of all Work and shall be responsible for all measurements that may be necessary or required for the execution of, and shall complete, any Work to the locations, lines, and grades specified in the Agreement, except that layout in easements and public rights of way of underground conduit, cable pipe lines and steam lines, and location of overhead poles shall be completed by Company.

B. It may be necessary at times for Company to temporarily interrupt a portion of Contractor's activities in order that Company or its designate may make measurements or surveys without interruptions or other interferences that may impair the accuracy of the results of such measurements or surveys. At any time, upon request by Company, Contractor shall interrupt its activities to such extent as may be necessary for this purpose.

18. SITE CONDITIONS

A. Contractor shall take field measurements, verify field conditions and carefully compare such field measurements and conditions and other information known to Contractor with the Agreement before commencing any activities. Contractor has sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, particularly (but without limitation) with respect to (1) those affecting transportation, access, disposal, handling and storage of materials, including lay down areas, (2) availability and quality of labor, water and electric power, (3) availability and conditions of roads; climatic conditions and seasons, (4) river hydrology and river stages, (5) physical conditions at the Site, (6) topography and ground surface conditions, (7) subsurface geology, and nature and quantity of surface and subsurface materials to be encountered, (8) equipment and facilities needed prior to and during performance of the Work, and (9) all other matters which can in any way affect performance of the Work or the cost associated with such performance. The failure of Contractor to acquaint itself with any applicable condition shall not relieve it from the responsibility for properly estimating the difficulty and cost for successfully performing the Work. If Company furnishes any data or other information concerning surface or subsurface conditions, Contractor shall be responsible for its interpretation of such data or information.

B. Contractor shall promptly, before proceeding with the Work or disturbing such conditions, notify Company in writing of (1) subsurface conditions at the Site differing materially from those indicated in the Agreement or (2) unknown physical conditions at the Site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work. Company shall, as promptly as practicable, investigate the conditions and make a determination. If Company determines that such conditions do materially so differ and cause an increase or decrease in Contractor's cost of, or the time required for, performance of any part of any Work, whether or not changed as a result of such conditions, an adjustment shall be made in accordance with this Agreement. If Contractor proceeds with any Work without written notice of such conditions to Company, Contractor shall assume responsibility for such performance and bear all costs attributable for any corrections. No claim of Contractor under this section shall be allowed unless Contractor has given Company the required notice before proceeding with any Work.

19. INTERRUPTION OF SERVICES

A. Unless otherwise specified in the Agreement, all Work is to be performed without interruption of service to Company's customers, consistent with Company's safety rules and procedures. If, in Contractor's opinion, it shall be necessary to interrupt service, Contractor shall advise the Company Representative as soon as possible in advance of the anticipated interruption. If Company determines, in its sole discretion, that interruption is necessary, it shall make all arrangements and shall advise Contractor of such arrangements. If Company determines it is not necessary, Contractor shall proceed with the Work without such interruption.

B. Public utility facilities, such as plant generating equipment, communications and power lines, gas and water mains, telephone and other cables and structures and the like, are not to be moved or otherwise tampered with until suitable arrangements with the company owning or operating such facilities are completed. Contractor shall, if appropriate, contact MISS DIG®. Contractor shall notify Company reasonably in advance of commencing any Work in the vicinity of such facilities and shall make all necessary arrangements without loss of time or interference with Company's schedules.

20. INSPECTION

A. Contractor is responsible for inspection of all materials furnished for the Work and the workmanship of materials furnished by Contractor or its Subcontractors or Suppliers. However, all equipment, materials and Work shall at all times be subject to inspection and testing by Company. Company shall have the right to reject equipment, materials and Work not complying with the requirements of this Agreement. Company shall notify Contractor in writing that such materials, equipment or Work are rejected. Thereupon, rejected Work shall be satisfactorily corrected, and rejected equipment and material shall be satisfactorily repaired or replaced with satisfactory material and equipment, all in accordance with the Agreement and at the expense of Contractor. Contractor shall promptly segregate and remove rejected materials and equipment from the Site.

B. Company shall perform inspections in such manner as not to unreasonably delay the Work, and Contractor shall perform the Work in such a manner as not to unreasonably delay inspection. Contractor shall give Company reasonable advance notice of operations requiring special inspections or tests, and may request inspection of a portion of any Work at any time by reasonable advance notice to Company.

C. Inspection of materials and finished articles to be incorporated into any Work may be made by Company at the place of manufacture or shipment. Contractor shall make provisions for such inspections with its Suppliers and Subcontractors. When such inspections are required by the Agreement, no such materials or finished articles shall be shipped from such place of inspection or incorporated in any Work prior to inspection or without a written waiver of such inspection by Company.

D. No acceptance of equipment, materials or Work shall be construed to result from inspection of the Work in progress by Company. Any inspections or tests or waivers thereof shall not relieve Contractor of its responsibility for meeting the requirements of the Agreement.

E. Nothing herein set forth shall be construed as requiring Company to inspect or otherwise examine the method, manner and means by which Contractor performs the Work or Contractor's safety practices or adherence to applicable laws, regulations, codes, ordinances and common trade or industry practices and standards, all of which shall be Contractor's sole responsibility.

21. USE OF COMPLETED PORTIONS OF THE WORK

A. Whenever Company determines that any portion of the Work performed by Contractor is in a condition suitable for use, Company may take possession of or use such portion.

B. Such use by Company shall in no event be construed as constituting acceptance, and shall neither relieve Contractor of any of its responsibilities under the Agreement, nor act as a waiver by Company of any of the terms of this Agreement, provided that Contractor shall not be liable for the cost of repairs, rework, or renewals which may be required due to ordinary wear and tear resulting from such use.

C. If, as a result of Contractor's failure to comply with the provisions of the Agreement, such use is unsatisfactory to Company, Company shall have the right to continue such use until such portion of the Work can, without adversely affecting Company, be taken out of service for correction of defects, errors, omissions, or replacement of unsatisfactory materials or equipment by Contractor, as necessary for such Work to comply with the Agreement, provided that the period of such operation or use pending completion of appropriate remedial action shall not exceed twelve (12) months, unless otherwise mutually agreed upon in writing between the parties.

22. LOSS OF OR DAMAGE TO WORK

A. Until acceptance of the Work by Company, Contractor shall be responsible for the Work and any loss or damage to such Work shall be at Contractor's risk and Contractor shall, at its own cost, promptly repair or replace the damaged Work.

B. Contractor shall protect Company and third party property from, and shall be responsible for, any loss or damage to such property arising out of the execution of the Work.

23. SCHEDULE AND PROGRESS

A. All time periods or limits stated in this Agreement, including, but not limited to, the date of commencement of the Work and the date of completion set forth in the Agreement, are of the essence.

B. Unless otherwise specified in the Agreement:

(1) Within ten (10) calendar days after the date of this Agreement, Contractor shall submit to the Company Representative for approval a schedule that provides for the orderly, practicable and expeditious completion of the Work (in a format appropriate for the Work) that takes into account Contractor's Subcontractors and Suppliers, material and equipment delivery schedules and the relationship of the Work to other activities at the Site.

(2) Within ten (10) calendar days of Company's receipt of the schedule, unless otherwise specified, Company shall either approve the schedule or return it to Contractor for revision. If returned, Contractor shall submit a revised schedule to Company for approval.

(3) Contractor shall furnish to Company every thirty (30) calendar days an updated schedule that reflects the status of the Work and incorporates all changes to the schedule.

(4) Contractor shall provide written notice to the Company Representative at least ten (10) calendar days prior to starting the Work or taking measurements preparatory for such commencement. On the day before commencement of the Work, Contractor shall also report to the Company Representative.

C. Company intends to rely upon the approved schedule for the scheduling of work for itself and others, and Contractor shall be liable, in addition to any of the remedies of Company set forth in this Agreement, for any impacts upon itself or others resulting from Contractor's or Contractor Personnel's failure to abide by the schedule and/or failure to update the schedule as required by the Agreement.

D. If Contractor's actual progress appears to Company to be inadequate to meet the requirements of the Agreement, Company may notify Contractor of such imminent or actual non-compliance with the Agreement. Contractor shall thereupon submit a recovery plan to Company for approval and take steps such as overtime or multiple shifts, at Contractor's expense, as may be necessary to improve its progress. Neither such notice by Company or Company's failure to issue such notice shall relieve Contractor from its obligation to achieve the quality of work and rate of progress required by the Agreement or liability for delay.

24. CHANGES

A. During performance of the Work, changes to the Work may be made that require a substitution for, an addition to, or deletion of any Work or a change in the method or manner of the Work, schedule or other requirement. Company may issue Change Orders, without invalidating the Agreement and without notice to Contractor's sureties, if any.

B. Company may request a change to the Agreement by notifying Contractor in writing and Contractor shall submit a written proposal for accomplishing the Change within ten (10) calendar days of notice of such request by Company, unless otherwise specified. Contractor must request a change in the Work or to the Agreement by submitting a proposal for such change to Company within ten (10) calendar days of the occurrence of events giving rise to the change. The proposal shall reflect the basis for a change in compensation, if any, and the schedule. Sufficient detail shall be given in the proposal to permit thorough analysis by Company. No amendment, alteration or modification of the Agreement shall be binding unless made pursuant to a Change Order. All Change Orders shall be supplementary to and incorporated as a part of the Agreement.

C. Any changes made without written authority from Company shall be the sole responsibility of Contractor. No action, conduct, omission, prior failure or course of dealing by Company shall act to waive, modify, change or alter the requirement that a Change Order must be in writing, issued by Company Representative and, when required by Company, signed by the parties.

D. If Company determines that an emergency has occurred or immediate action is required to avoid stopping or disruption of the Work in progress, the Company Representative may give Contractor an oral order, direction or instruction to proceed with a change. Contractor shall, within five (5) calendar days after commencement of the change, unless specified otherwise in the Agreement, provide Company with a written proposal on the effect of the change. The proposal shall be administered as provided in clause B of this section. If no such Change Order is received by Contractor within thirty (30) calendar days of the event, Contractor shall have the right to suspend the work associated with the change or proceed at Contractor's own risk.

25. DELAYS

A. If Contractor is delayed in the performance of the Work by (1) any act or omission of Company, its representatives, other contractors, subcontractors or suppliers (other than Contractor's Subcontractors and Suppliers) or (2) any other event affecting Contractor, Company, any other contractors, or subcontractors at the Site that could not be reasonably foreseen and guarded against and Contractor is without fault or negligence, then, in each case, Contractor shall receive an extension of time only equivalent to the time that the performance of the Work as a whole was delayed, without any increase in compensation.

B. Immediately upon the onset of the delay, Contractor shall provide written notice to the Company Representative. As soon as possible, but not more than ten (10) calendar days after the delay or at the next scheduled update of the schedule, whichever is earlier, Contractor shall provide the Company Representative with a detailed description and probable duration of the delay, the specific portion of the Work affected, and the requested extension of time. Failure to provide such notices shall be a waiver of any claims of Contractor arising from such delay.

C. If Contractor is responsible for a delay in the progress of the Work, Contractor shall, without additional cost to Company, immediately work such overtime, acquire necessary additional equipment or perform such other acts as may be necessary to avoid delay in the completion of the Work.

D. Company may assist Contractor with expediting drawings, equipment and material to be furnished under the Agreement. Company shall be allowed reasonable access to Contractor's plants, and those of its Subcontractors and Suppliers, for expediting purposes.

E. Within seven (7) calendar days of the commencement of any Force Majeure event described in Section 53 below, Contractor must notify Company Representative in writing of the nature, cause, date of commencement and expected impact of the event. Contractor must exercise due diligence in proceeding to meet its performance, obligations hereunder notwithstanding the delay. Upon Contractor satisfying these conditions, Company may extend the schedule for the period of time equal to the time actually lost by reason of the delay.

26. SUSPENSION

A. Company may at any time and for any reason, upon one (1) calendar day's written notice, order Contractor to suspend, or interrupt all or any part of the Work for such period of time as appropriate for the convenience of Company. Upon receipt of such notice, Contractor shall suspend the Work on the date and to the extent specified in the notice.

B. If the performance of all or any part of the Work is suspended by Company, an adjustment shall be made for any increase in the cost and time of performance of this Agreement directly caused by such suspension. However, no adjustment shall be made under this section

for any suspension to the extent that performance would have been so suspended, delayed, or interrupted by any other provision of the Agreement, including due to the fault or negligence of Contractor.

C. Upon such suspension, Contractor waives all claims for damages, including, but not limited to, loss of profits, idle equipment, labor and facilities, and any claims of Contractor Personnel. Contractor's sole compensation for any suspension under this section shall be either reasonable demobilization or standby costs, in each case, as agreed to by Company.

D. Upon receipt of notice to resume the suspended Work, Contractor shall resume performance to the extent required in the notice and, within ten (10) calendar days, submit to Company a revised schedule for review that reflects the effect of the suspension on the schedule. Contractor shall be reimbursed for its reasonable mobilization costs. These adjustments shall be limited to such matters as cost increases required under labor, subcontractor or supplier agreements in effect on the date of suspension.

27. COMPANY'S RIGHT TO PERFORM THE WORK

If Contractor fails to perform the Work or any provision of the Agreement, after three (3) days prior written notice to Contractor or immediately if an emergency or catastrophic event takes place, Company may, without prejudice to any other remedy it may have, correct such deficiencies at Contractor's expense.

28. COMPANY'S RIGHT TO STOP THE WORK

If Contractor fails (1) to perform the Work, (2) to correct defective Work, (3) to supply materials or equipment in accordance with the Agreement, or (4) to provide Company with timely notification of certain events affecting performance of the Work, Company may, without prejudice to any other rights or remedies available to it, order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. Such work stoppages as well as elimination of the cause therefore shall not result in any additional costs to Company or in any extension of the completion date set forth in the Agreement unless otherwise agreed in writing by Company.

29. DISPUTE RESOLUTION

A. Contractor has the duty to promptly seek clarification and resolution of any error, omission, issue, discrepancy, misunderstanding, conflicts or dispute arising from questions concerning contract interpretations or acceptable fulfillment of this Agreement on the part of Contractor and Company. Any request by Contractor for additional compensation, schedule adjustment, or other dispute resolution must be filed by Contractor and submitted to Company Representative no later than ten (10) calendar days after discovery of the discrepancy or no later than ten (10) calendar days after the occurrence of the event causing the dispute. Contractor's failure to provide such notice shall constitute a waiver by Contractor of any claim arising out of events occurring more than ten (10) calendar days prior to the date notice is provided to Company Representative.

B. Once Company receives notice of Contractor's formal request for dispute resolution, Company shall make every reasonable effort to arrive at a timely determination. This determination shall be provided to Contractor's authorized representative in writing. All determinations, instructions and clarifications of Company shall be final, and Contractor shall proceed with the Work in accordance with the determinations, instructions and clarifications of Company, unless Contractor protests the Company's resolutions within ten (10) calendar days of receipt thereof. Contractor's failure to timely protest Company's resolutions shall be considered a failure of a condition precedent to any other course of action and shall be deemed an express waiver by Contractor of all its rights to further protest, whether through arbitration, litigation or otherwise.

30. LIENS

A. Contractor, as directed by Company, shall, at its own expense, obtain a prompt discharge of any lien or liens arising out of the Work that may be filed against Company's property.

B. If any lien is filed, payment for the Work, any other payments due under this Agreement or any other agreement between Contractor and Company may not be made until Contractor offers proof that said lien has been removed. Contractor shall be responsible for all costs, including legal fees, associated with the removal of such liens.

31. PAYMENT

A. Invoices, statement of charges or service receipts (as applicable) for Work performed shall be submitted by Contractor on a timely basis, in the manner, frequency and form, and with such supporting documentation, including acknowledgment of receipt of Work by Company, as required by the Agreement or as reasonably requested by Company. Company shall pay approved invoices, less any retainage specified in the Agreement, in accordance with the payment terms specified in the Agreement or shall notify Contractor of its reasons for disapproval of such invoices. Company shall not be required to pay any portion of an invoice which is disputed in good faith until such dispute is resolved.

B. Contractor shall promptly pay its Subcontractors, Suppliers and laborers fringe benefits and other costs upon receipt of each payment the respective amounts allowed Contractor on account of the Work performed and to the extent of each interest therein.

C. Company may at any time require that invoices covering materials and equipment furnished or labor and services performed, be accompanied by sworn statements, waivers of lien and other documents as provided for by the Michigan Construction Lien Act, MCL 570.1101, *et seq.* or similar law in the jurisdiction where Work is performed, as applicable. If such documents are requested, Company

may, in its discretion, withhold all or a portion of any payment until such documents are received. Company may, at its option, make payments directly to Subcontractors, Suppliers or other lien claimants with notice of such payment to Contractor, and deduct such amounts from any payment to Contractor or withhold, without interest, any payments otherwise due by Company to Contractor because of any claim arising out of this or any other transaction with Company.

D. Contractor shall defend, indemnify and hold harmless Company from any and all claims, demands, causes of action and/or costs, including reasonable attorney fees, attributable to Contractor's failure to make any payments required by the Agreement. Nothing in the Agreement shall imply or infer an obligation of Company to make payment to any party other than Contractor.

E. Upon receipt of written notice from Contractor that the Work is ready for final inspection or review and acceptance, Company shall have its designated representative make such inspection. If Company's designated representative finds that the Work is acceptable, the lien waivers and evidence required under clause F below have been submitted, and all obligations of Contractor have been paid, a certificate of final payment shall be issued and signed stating that the Work under this Agreement has been completed and is accepted, and the entire balance as set forth in such final certificate is due Contractor. Issuance of such final certificate shall not waive any rights of Company under the Agreement or release any liability of Contractor.

F. Before issuance of the certificate of final payment, Contractor shall submit evidence satisfactory to Company that all payrolls, materials, bills, sales and payroll taxes and other amounts connected with the Work have been paid, and Company shall not be obligated to pay the balance due until such evidence has been submitted and waivers of lien have been furnished to Company.

G. After Contractor receives a release and certificate of final payment as provided in clause E above, Contractor shall submit a final invoice to Company showing the total price of the Work and the total of all amounts previously paid to Contractor under this Agreement. The final payment shall be the difference between the total price and all amounts previously paid to Contractor or Contractor Personnel. The final invoice shall be accompanied by a release and certificate of final payment.

32. GENERAL REPRESENTATIONS

Contractor represents and warrants that:

A. Contractor is qualified to perform Work in the State of Michigan or in any other state where any Work is to be performed. Execution, delivery and performance by Contractor of this Agreement have been authorized by all necessary action on behalf of Contractor.

B. The execution, delivery and performance by Contractor under this Agreement does not conflict or result in the breach of any applicable laws, any judgment or decree of any court, or any agreement to which Contractor is a party.

C. As of the date of these Terms and Conditions and as of the date of any Contract or Purchase Order issued in connection with these Terms and Conditions, Contractor is not debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving federal contracts, certain subcontracts, and certain federal assistance and benefits by the General Services Administration pursuant to the provisions of 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404.

33. CONTRACTOR COVENANTS

Contractor will comply with all applicable federal, state and local laws, ordinances, industry standards, codes, regulations and executive orders or decrees (collectively, "Laws"), including but not limited to (1) the applicable Laws set forth on the Schedules to these Terms and Conditions and the attachments to this Agreement, (2) all applicable environmental and pollution control Laws, (3) Laws of bodies or tribunals having any jurisdiction or authority over the Work, (4) OSHA and MIOSHA and (5) and any rules or regulations of Company relating to health, safety or performance of the Work. If any discrepancy or inconsistency should be discovered between the Agreement and any such Laws, Contractor shall immediately report the same in writing to Company Representative. Contractor shall be responsible for Contractor Personnel's compliance with such Laws and shall be liable for all fines levied as a result of a violation of such Laws by Contractor or Contractor Personnel.

34. NUCLEAR POWER PLANT ADDITIONAL TERMS

If Contractor performs any Work for or at a Company nuclear power plant, Contractor shall abide by the Nuclear Terms Schedule attached hereto, which may be modified by Company from time to time to conform to any change in law.

35. FEDERAL CONTRACTING REQUIREMENTS AND FOREIGN CORRUPT PRACTICES ACT

Contractor agrees to comply with the Federal Contracting Requirements and Foreign Corrupt Practices Act as set forth on the attached Federal Requirements Schedule, which may be modified by Company from time to time to conform to any change in law.

36. U.S. DEPARTMENT OF TRANSPORTATION PIPELINE FACILITY REQUIREMENTS

If Contractor is performing Work on a pipeline facility, Contractor shall comply with the federal requirements set forth on the attached USDOT Pipeline Facility Requirements Schedule, which may be modified by Company from time to time to conform to any change in law.

37. BACKGROUND INVESTIGATION REQUIREMENTS

Contractor shall comply with the requirements set forth on the attached Background Investigations Requirements Schedule, which may be modified by Company from time to time to conform with any change in law.

38. ENVIRONMENTAL COMPLIANCE

A. Waste. Contractor may not place material in any Company waste storage containers, including but not limited to rubbish dumpsters, used oil drums and tanks, hazardous waste drums, satellite waste collection drums and recycling containers, in each case, without prior written consent from Company Representative. Contractor may not dispose of any waste (including but not limited to solvents, oily waste, and janitorial supplies) in any Company drains or ditches without prior written consent from Company Representative. Contractor is responsible for all clean up and disposal of wastes generated or resulting from work activities unless otherwise specified in the Agreement. Contractor must use Company's Environmental Management and Resources Department approved (or obtain approval for) transportation and disposal facilities for the disposition of all waste. Contractor must package, label and manifest any hazardous or liquid industrial waste prior to disposal, which is subject to inspection by Company Representative. Manifested waste generated at Company's Fossil Generation facilities shall be signed by the Company Environmental Professional at the Site. Unless otherwise specified in the Agreement, any cost incurred by Company to dispose of Contractor generated waste left behind at the Site will be the responsibility of Contractor.

B. Chemicals. Contractor shall provide Company Representative a list of all chemicals and their material safety data sheets (MSDS's) used by Contractor and their Subcontractors on Company property or systems at least one week prior to delivery of chemicals to the Site. Company Representative may prohibit the use or request substitution of any chemical substance deemed to be unacceptable (e.g., non-halogenated solvents versus halogenated solvents). Contractor is responsible for removal of all unused products and materials (including chemicals) brought onto Company's property. Contractor shall label and store all chemical products used at the Site in accordance with United States Occupational Safety and Health Administration standards. Contractor shall not use Company chemical supplies, without prior written consent from Company Representative. Some Company facilities report under the U.S. EPA's Toxic Chemical Release Inventory (TRI). If Contractor uses or supplies a TRI listed chemical or product at a TRI reporting facility, Contractor shall provide Company with an estimated quantity used and estimated releases to air, water, land or disposal for each listed TRI product. Contractor shall submit all TRI estimates to the Company Representative in pounds/year, within two (2) months of completion of the Work.

C. Tanks. Contractor may not locate temporary fuel tanks on Company property without the authorization of Company Representative. Contractor's temporary fuel tanks shall include, at minimum, containment for the volume capacity of the tank and overflow protection. Overflow protection can constitute a gauge clearly visible from the fill point. Contractor, when fueling from a temporary tank (including mobile fuelers) must use drip pans or other means to ensure the capture of drips from connections, nozzle residual, etc. Contractor shall ensure immediate access to appropriate clean-up materials such as absorbent pads, absorbent clay, etc. Contractor tanks on Company property shall materially and operationally meet all federal, state and local requirements. Any parts cleaners brought onto Company premises by Contractor shall contain only non-ignitable fluids, with a flash point higher than 140 degrees Fahrenheit; use a pumped filter to remove particles and grease during use and be used in a manner consistent with federal regulations (e.g. lid must remain closed when not in use, must have drip shelf, etc).

D. Spills. All costs associated with response and remediation of a spill caused by Contractor (including but not limited to: labor, materials, disposal, reports, sampling and analysis) shall be Contractor's responsibility. Contractor shall notify Company Representative immediately in the event of a spill or release of polluting material to the environment. Unless otherwise designated in the Agreement, Company shall be responsible for notifications to the applicable federal, state, and local authorities, Contractor shall immediately initiate containment of any spill while remaining outside the spill area of impact. Company shall determine whether the spill constitutes an emergency or an incidental release per OSHA 29 CFR 1910.120(a)(3). If Company determines that a spill is an incidental release, Contractor may complete spill response and remediation in accordance with all applicable federal, state and local requirements. If Company determines that a spill constitutes an emergency, Contractor shall not attempt response and remediation beyond containment unless Contractor can verify that it has received training certification under 29 CFR 1910.120. In all cases, the response and remediation plan shall be approved by Company Representative or delegate.

E. Compliance. Contractor and Contractor Personnel shall conduct activities on Company property in compliance with all environmental federal, state, and local regulations. Contractor and Contractor Personnel shall not conduct activities that result in Company exceeding any environmental permit limitation or condition. In the event Contractor's or Contractor Personnel's work causes a permit exceedance or noncompliance, Contractor shall be responsible for any associated fines or costs. Contractor shall inform Company Representative prior to any planned activity expected to result in a discharge to the environment, including but not limited to, surface water, air, ground and city sewer. Any damage or delays caused by the work release shall be Contractor's responsibility.

F. Environmental Management System. Company is committed to continually improving environmental performance. As part of this commitment, Company has certified some facilities' environmental management systems (EMS) to the ISO 14001 standard. Contractor shall ensure that Contractor Personnel performing work at a facility with a certified EMS read the "ISO 14001 Environmental Management System Handbook", as may be amended from time to time. An acknowledgement page from each handbook shall be signed by Contractor and submitted to Company Representative. Contractors shall ensure that Contractor Personnel actions comply with the requirements of a facility's EMS.

39. CONFIDENTIALITY

A. Contractor acknowledges and agrees that all information that Company discloses to Contractor or to which Contractor may have access during Contractor's performance of the Work is considered proprietary and confidential by Company, unless otherwise designated. Such information shall be used by Contractor only in connection with completing the Work. The information is and shall, at all times, remain the property of Company. Contractor shall disclose such information to Contractor Personnel only to the extent necessary to perform the Work or other obligations under the Agreement. Contractor shall advise such persons of the existence of this Agreement, of the confidential nature of the information and of Contractor's obligations regarding same under this Agreement. Except as otherwise provided herein, Contractor and Contractor Personnel shall not disclose such proprietary or confidential information to any third party for any reason or purpose whatsoever. In the event of a breach or threatened breach of this section by Contractor or Contractor Personnel, Company shall be entitled to an injunction restraining such conduct. Nothing herein shall be construed as prohibiting Company from pursuing any other remedies available to Company for such breach or threatened breach. Contractor shall be responsible for any breach of these confidentiality obligations by Contractor Personnel.

B. Contractor and its employees shall not be required to protect or hold in confidence any such information which (1) becomes known to the public through no act or omission of Contractor or Contractor Personnel; (2) is ordered to be disclosed by a court or administrative agency; or (3) is thereafter developed independently by Contractor.

C. In the event that Contractor is requested or required under compulsion of legal process to disclose such information, Contractor shall not, unless required by law, disclose the information until Company has first (1) received prompt written notice of such request or requirements to disclose and (2) had an adequate opportunity to obtain a protective order or other reliable assurance that confidential treatment shall be accorded to the information. Contractor shall not oppose actions by Company to assure such confidential treatment.

D. No publications or advisements concerning the subject matter of the Agreement, Company's name and/or logo, or photographs of the Work or Site or any portions thereof shall be made by or on behalf of Contractor or Contractor Personnel without prior written authorization from Company.

40. TAXES

A. Contractor accepts exclusive liability for all payroll taxes now or hereafter imposed by the United States or any state or local government, and any penalties and interest on such payroll taxes, resulting from amounts paid to Contractor Personnel. Such persons shall in no event be the employees of Company. Contractor agrees to indemnify Company for any such payroll taxes, penalties and interest levied against Company or which Company may be required to pay.

B. Contractor agrees to indemnify Company from any and all taxes under Section 4980B of the Internal Revenue Code of 1986, as amended, and any penalties and interest thereon, resulting from the failure of Contractor to satisfy the continuation coverage requirements provided in such section with respect to persons used by Contractor in performing under this Agreement. Contractor shall pay all income, property, sales and use, excise and any other taxes now or hereafter imposed by the United States or any state or local government, and any penalties and interest on such taxes, arising out of Contractor's performance of the Work, and shall indemnify Company for all such taxes, penalties and interest levied against Company or which Company may be required to pay.

C. Unless otherwise provided in the Agreement, Contractor shall pay all Michigan sales and use taxes on all materials used in performing the Work. If Contractor is purchasing materials pursuant to the Agreement, Contractor will provide an executed Sales and Use Tax Affidavit in the form attached hereto as Exhibit 1, confirming that the Company's payments under the Agreement includes all applicable sales and use tax and that such taxes have been remitted to the proper taxing authority. Certain materials purchased pursuant to the Agreement may be exempt from sales tax by reason of industrial processing. If Contractor (or its subcontractors) acquire materials that will be incorporated into the Work or that are for Company's use, then only for the purpose of the tax exemptions listed in this section, Contractor (or its subcontractors) are acting as Company's agent in acquiring such materials. Electrical generation materials and equipment qualify for a 100% industrial processing exemption from Michigan sales and use tax. Contractor (and its subcontractors) doing industrial processing work on behalf of Company can apply for this exemption when purchasing certain materials under this Contract. If Contractor or its subcontractors purchase any of the materials listed below, then such items will be exempt from Michigan sales and use tax only up to the corresponding exemption percentage:

Category	Exemption Percentage	Tax Rate
Transformers and Components	90	0.6%
Stations and Substations	90	0.6%
Poles and Pole Top Equipment	25	4.5%
Distribution Tools and Supplies	50	3.0%

Wires and Cabling	25	4.5%
Personal Safety and Equipment	50	3.0%
Customer Meters	25	4.5%

41. PERMITS

Unless otherwise directed by Company, Contractor shall procure and pay for all other permits and inspections and furnish any bonds, security or deposits required for the Work.

42. INSURANCE

A. Prior to the start of the Work, Contractor shall provide Company with Certificate(s) of Insurance evidencing that insurance coverage of the types, amounts and conditions as specified in Appendix A "Insurance to be Provided by the Contractor/Supplier" are in effect. Such insurance coverage shall remain in effect during the life of the Agreement.

B. Contractor shall require its Subcontractors to carry insurance in the amount, type and form of insurance required by the Agreement. If its Subcontractors do not obtain such coverage, Contractor shall insure the activities of its Subcontractors.

43. INTELLECTUAL PROPERTY

A. Contractor represents and warrants that it has authority to grant, and hereby grants Company, a permanent, assignable, nonexclusive, royalty free license to use, maintain and modify (except for software) any Third Party Work that is required for the Work.

B. All Work Product shall become the sole and exclusive property of Company, whether delivered to Company or not, and shall be delivered to Company in hard copy, in electronic native file format as well as Adobe Portable Format (PDF) upon request or upon expiration, termination or completion of this Agreement.

C. Company and Contractor agree that all Work Product is a Work-Made-For-Hire under the copyright laws of the United States. In addition, if any Work Product is not Work-Made-For-Hire, Contractor agrees to assign and does hereby expressly assign to Company for all time, all right, title and interest to all Work Product, including any and all intellectual property rights it may have in any whole or part of the Work. Contractor agrees to obtain any assignments of rights from other parties, including its employees, it requires to comply with this section.

D. During and after the expiration or termination of this Agreement, Contractor agrees to assist Company in every reasonable way, at Company's cost, to secure, maintain and defend for Company's benefit all intellectual property rights it may have in any whole or part of the Work Product.

E. Notwithstanding the foregoing, Contractor shall retain ownership of all its pre-existing know-how embodied in the Work Product, provided that the Company shall have a transferable license to use such pre-existing know-how to the fullest extent necessary to realize the benefits of the Work or Work Product, as applicable.

F. Contractor warrants that all materials, equipment and processes used or supplied and the Work performed are free from infringement of any patent, trademark or other intellectual property right. Contractor shall pay all royalties and license fees necessary for the performance or use of the Work.

G. Contractor shall indemnify and defend any action brought against Company based on a claim or allegation that any process or method used, equipment or material supplied or Work performed pursuant to this Agreement constitutes an infringement or violation of any patent, trademark or other proprietary right. Company shall at Contractor's expense give such information and assistance as it may deem appropriate for the defense of same, and Contractor shall pay all of Company's actual costs and expenses of such action, including any damages awarded. If an infringement or violation is determined or held to exist and the use of such process, method, equipment, material or service is enjoined, Contractor shall at its own expense and at Company's option either (1) procure for Company the right to continue using said process, equipment, material or service; (2) replace it with non-infringing process, equipment, materials or service acceptable to Company; or (3) modify it in a manner acceptable to Company so that it becomes non-infringing.

44. WARRANTY

A. Contractor represents and warrants that:

(1) all materials and equipment furnished by it and its Subcontractors or Suppliers shall be (a) free from defects in design, material and workmanship, (b) fit for the purpose intended, (c) new and conform to the specifications, drawings, samples and other descriptions as set forth in the Agreement and, (d) where not specified, of the highest quality and best grade of its respective kind for its intended use,

(2) it has good and marketable title to all materials at the time the materials are loaded for delivery to Company and that title to all materials and equipment furnished by it shall pass to Company free and clear of all liens, claims, security interests or encumbrances,

(3) all workmanship shall be in accordance with acceptable industry practices applicable to the Work,

(4) all engineering, drafting or other technical services provided as part of the Work shall be performed by qualified and competent personnel in accordance with industry practice and the high standards of care, skill, diligence and practice appropriate to the nature of the services rendered and shall conform in all respects to any Company specifications.

B. Contractor acknowledges and agrees that Company will be relying on the accuracy, competence and completeness of the technical services to be performed and will use the results of such services as input data for Company projects. If at any time during the eighteen (18) month period after the date that the Work is first used for the purposes intended by Company or the four (4) year period after the date of acceptance by Company, whichever comes first, it appears that the Work, or any portion thereof, does not conform to the foregoing warranties, Company shall notify Contractor of such breach of warranty within a reasonable time after discovery and Contractor will promptly correct such defects as follows:

(1) Contractor shall provide any redesign, repair, replacement and testing services as necessary to correct any nonconforming Work. The warranty for redesigned, repaired or replaced Work shall be of equal duration and scope as the original warranty and commence upon Company's acceptance of such corrected Work.

(2) Contractor shall defend and hold harmless Company, its successors and assigns from and against any liens, charges, claim or encumbrances in breach of the foregoing warranty; this provision of this clause B2 shall survive termination or expiration of this Agreement.

C. Contractor shall be responsible for all costs incidental to such redesign, repair, replacement and testing, including the removal, replacement and reinstallation of equipment and materials necessary to gain access, transportation and all other costs incurred as the result of a breach of warranty. If Contractor fails, or is unable, to promptly make the necessary redesign, repairs, replacements and/or tests, Company may, at Contractor's expense (1) perform, or cause to be performed, the necessary work, (2) revoke acceptance and cover by purchasing substitute materials or (3) pursue all remedies available to Company at law or in equity. Contractor shall promptly reimburse Company for such expenses or Company may deduct same from any amounts owing to Contractor.

D. Contractor shall promptly provide Company Representative (1) notice of any defects (latent or otherwise) in the materials and/or equipment, (2) any warnings concerning defects (latent or otherwise) in the materials and/or equipment, (3) any recall notices or safety bulletins related to the materials and/or equipment, and (4) details including corrective action requirements. The provisions of this section shall survive termination or expiration of the Agreement.

E. In addition to, and without limiting, Contractor's warranty, Contractor shall obtain and extend to Company any manufacturer's warranty for products or processes utilized during, or incorporated into, the Work and procured by Contractor.

45. TERMINATION FOR CONVENIENCE

A. Company may at any time, upon ten (10) calendar days written notice to Contractor, terminate this Agreement in whole or in part. Upon receipt of such notice, Contractor shall discontinue work on the date and to the extent specified in the notice and shall thereafter do only such work as may be necessary to preserve and protect the Work already in progress and to protect materials, plant and equipment at the Site or in transit to the Site.

B. Upon such termination, Contractor waives all claims for damages as a result of such termination including, but not limited to, loss of profits, idle equipment, labor and facilities, and any claims of Subcontractors or Suppliers as a result of such termination, and shall accept the value of all Work completed through the date of termination as sole and complete compensation. No termination fee(s) shall be payable by Company.

C. The value of all Work shall be calculated using the value for all Work satisfactorily completed at the Site and all specially manufactured goods completed at other locations, but not including any goods that are Contractor's (or any of its Subcontractor's or Supplier's) inventory or not acquired at the direction of Company. Unit prices shall be used to determine value. If there are no unit prices, value shall be determined on a percent-complete basis in relation to the Agreement price.

46. TERMINATION FOR CAUSE

A. Contractor shall be in default if at any time: (1) Contractor refuses, neglects or fails in any respect to prosecute the Work hereunder or any portion thereof with promptness, diligence or in accordance with any of the provisions set forth herein, (2) Contractor refuses, neglects or fails to perform any other obligations under this Agreement or provide adequate assurance of performance, (3) Contractor makes an assignment for the benefit of creditors or bankruptcy or insolvency proceedings are instituted by or against Contractor or (4) in Company's sole judgment, Contractor's financial or other condition or progress on the Agreement shall be such as to endanger timely performance. Upon receipt of any written notice of default, Contractor shall, at its expense, preserve all materials and equipment, and undertake immediate steps to remedy such default.

B. If Contractor fails to remedy such default within forty-eight (48) hours after receipt by it of such written notice, Company may, in writing, and without notice to Contractor's sureties, if any, terminate this Agreement and/or pursue any other remedies available under this Agreement, at law or in equity.

C. Upon receipt of any such written notice of termination, Contractor shall at its expense (1) provide a written, detailed inventory of all materials and equipment in storage at the Site, in transit to the Site, in storage or manufacture away from the Site, and on order from its

Suppliers, (2) assign to Company at Company's election all or some of its Subcontractor, Supplier and equipment rental agreements, (3) remove from the Site only such construction materials and equipment listed in the inventory which are designated in writing by Company not to be used by Company in completing the Work, (4) return all Company property, (5) obtain any intellectual property rights in any Work Product and provide same to Company and (6) take all reasonable steps to cooperate with Company to transition any Work (completed or in progress) to Company.

D. In the event of termination under this Section, Company may enter upon the premises and into places of manufacture of Contractor, Subcontractors and Suppliers to complete the Work or enforce these provisions, take possession of all materials, equipment, tools and appliances thereon belonging to or under the control of Contractor, its Subcontractors and/or Suppliers and use them to finish the Work by whatever method it may deem expedient, including the hiring of other contractor(s) or subcontractor(s) under such form of contract as Company deems appropriate, or Company may itself provide any labor or materials and perform any part of the Work. In such case Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of Contractor's compensation hereunder exceeds the sum of the costs and expenses to complete the Work plus compensation to Company for its additional managerial and administrative services and such other costs and damages as Company may suffer, such excess shall be paid to Contractor. If such expense, compensation, costs and damages exceed such unpaid balance, Contractor and its sureties, if any, shall be liable for and shall pay the excess to Company, including any attorneys' fees and costs, plus interest.

E. Termination is not Company's exclusive remedy and is in addition to any other rights and remedies it may have under this Agreement, at law or in equity. Failure of Company to exercise any of its rights under this section shall not excuse Contractor from compliance with the provisions of this Agreement nor prejudice rights of Company to recover damages for such default.

F. Upon discovering any breach of this Agreement by Contractor, except as otherwise provided in this Agreement, Company may pursue any and all remedies available at law or in equity, including, but not limited to, requiring Contractor, at its expense, to replace defective materials and equipment, to re-perform defective work, and to replace or repair (at Company's option) any materials, equipment, or other Company property damaged as a result of Contractor's breach. In the event of an emergency when, in the judgment of Company, delay could cause serious loss or damage, repairs or adjustments may be made by Company or a third party chosen by Company, and the cost of the work shall be paid by Contractor and may be deducted from any amounts owing to Contractor under this Agreement or otherwise.

47. INDEMNIFICATION

A. Contractor covenants and agrees that it shall defend, indemnify and hold Company and all of its officers, agents and employees (each a, "Company Indemnitee") harmless for any claim, loss, damage, cost, charge, expense, lien, settlement or judgment, including interest thereon, including employees of Contractor, its Subcontractors and Suppliers, or property or both, arising directly or indirectly out of or in connection with Contractor's or any of its Subcontractor's or Supplier's performance of the Agreement or in connection with the performance of the Work, to which Company or any of its officers, agents or employees may be subject or put by reason of any act, action, neglect or omission on the part of Contractor, any of its Subcontractors or Suppliers or Company, or any of their respective officers, agents and employees. Without limiting the foregoing, said obligation includes claims involving Contractor's, Supplier's or Subcontractor's employees injured while going to and from the Site. If the Agreement is one subject to the provisions MCL 691.991, then Contractor shall not be liable under this section for damage to persons or property directly caused or resulting from the sole negligence of Company, or any of its officers, agents or employees.

B. In the event any suit or other proceedings for any claim, loss, damage, cost, charge or expense covered by Contractor's foregoing indemnity should be brought against any Company Indemnitee, Contractor hereby covenants and agrees to assume the defense thereof and defend the same at Contractor's own expense and to pay any and all costs, charges, attorney's fees, and other expenses, and any and all judgments that may be incurred by or obtained against any Company Indemnitee in such suits or other proceedings. In the event of any judgment or other lien being placed upon the property of Company in such suits or other proceedings, Contractor shall at once cause the same to be dissolved and discharged by giving bond or otherwise.

48. LIQUIDATED DAMAGES

This section applies only if liquidated damages are specified in the Agreement. If Contractor fails to complete the Work, or any portion thereof, within the time specified in this Agreement, the damages to Company as a result of such delay shall be substantial. However, the amount of such damages is difficult and impractical to determine and, as such, the parties agree that the amount set forth as liquidated damages in the Agreement is a reasonable estimate of Company's damages for such delay. The amount of any liquidated damages may be withheld from any payments due Contractor or shall be paid by Contractor, or its sureties, if any, to Company. If liquidated damages are withheld during performance and Contractor subsequently remedies its delay, such liquidated damages shall be refunded.

49. LIMITATIONS OF LIABILITY

Except as may be expressly stated elsewhere in this Agreement, neither party shall be liable to the other party for incidental, indirect, or consequential damages, including, but not limited to, loss of profits or revenue.

50. SET OFF

Company shall be entitled at any time to set off any sums owing by Contractor or any of Contractor's affiliated companies, to Company or to any of Company's affiliated companies, against sums payable by Company.

51. RECORDS AND AUDITS

Company or its authorized representative shall have access to Contractor's records to review, audit, and verify any information connected with this Agreement for a period of three (3) years after the calendar year in which the Work is completed. Contractor shall keep all records in an electronic format and be able to transmit them to Company in an electronic native-file format as well as Adobe Portable Document Format (PDF). All documents and records shall be provided to Company at no additional cost. Company has the right to use general audit software and other reporting tools to analyze the data.

52. ASSIGNMENT

No assignment of this Agreement or any of its rights or obligations hereunder shall be made by Contractor without first obtaining the written consent of Company. This Agreement shall be binding upon and shall inure to the benefit of the respective successors and permitted assigns of the parties hereto.

53. FORCE MAJEURE

Neither party shall be liable for a failure to perform any of its obligations hereunder to the extent due to fire, flood, storm, other natural disaster, national emergency or war (such, "Force Majeure" events), and not due to labor problems, inability to obtain financing, negligence or other similar condition of such party, provided that either party has given the other prompt notice of such occurrence and Contractor provides notice in accordance with Section 25 above.

54. NON-WAIVER

None of the provisions of the Agreement shall be considered waived by either party unless such waiver is given in writing by the other party. No such waiver shall be a waiver of any past or future default, breach or modification of any of the terms, provisions, conditions or covenants of the Agreement unless expressly set forth in such waiver.

55. NOTICES

Notices and other written communications shall be sent to Company Representative and Contractor's representative identified in the Agreement. Such notices and other written communications must reference the Purchase Order and/or Contract Number appearing in the Agreement.

56. SAVING CLAUSE- INDEPENDENT TERMS

Each term and condition of this Agreement is deemed to have an independent effect and the invalidity of any partial or whole paragraph or section shall not invalidate the remaining paragraphs or sections. The obligation to perform all of the terms and conditions shall remain in effect regardless of the performance of any invalid term by the other party.

57. SURVIVAL

All of the terms of this Agreement which by their nature extend beyond (a) the termination or expiration of this Agreement or (b) the completion of the Work shall, in each case, survive and remain in full force and effect and apply to respective successors and assigns.

58. NON-EXCLUSIVITY

It is agreed that this Agreement is not exclusive, and that nothing herein shall be deemed to prevent Company from engaging others to perform any of the Work or to prevent Company from performing any of the services through its own employees or agents.

59. CONSTRUCTION OF TERMS; SECTION HEADINGS

The terms of this Agreement have been arrived at after mutual negotiation and the parties agree that its terms shall not be construed against any party by reason of the fact that this Agreement was prepared by one of the parties. References to laws refer to such laws as they may be amended from time to time. The words "shall" and "will" have equal force and effect. The words "include", "including" or "includes" shall be read to be followed by the words "without limitation". The section headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation hereof.

60. GOVERNING LAW AND JURISDICTION

The Agreement, and the rights, obligations and liabilities of the parties hereto shall be construed in accordance with the law of the State of Michigan or the location of the Company Site where Work is performed, as applicable, without regard to its conflict of law principals. The parties agree that any action with respect to this Agreement shall be brought in a court of competent subject matter jurisdiction located in the State of Michigan and the parties hereby submit themselves to the exclusive jurisdiction and venue of such court for the purpose of such action.

61. ENTIRE AGREEMENT

A. The Agreement represents the entire agreement between Company and Contractor respecting the Work and no modification of the Agreement shall be effective unless made by a Change Order. Any agreements, negotiations or understandings of the parties prior or contemporaneous to the date of the Agreement, whether written or oral, are superseded hereby.

B. Any document submitted by Contractor (including any Contractor document referenced in the Agreement) is used solely for the purpose of describing the Work and to the extent containing any terms in addition to or inconsistent with the terms of the Agreement, or a rejection of any terms of the Agreement, shall be deemed to be a counteroffer to Company and shall not be binding upon Company unless specifically accepted in writing by Company Representative. In the absence of written acceptance of such counteroffer by Company, commencement of performance by Contractor shall be deemed to be an agreement by Contractor to perform in accordance with the terms of the Agreement and an acceptance hereof, notwithstanding any prior dealings or usage of trade.

NUCLEAR TERMS SCHEDULE

PROTECTION AND INSPECTION OF MATERIALS

If Contractor is providing goods for delivery to or for use at a Company nuclear power plant, Contractor shall establish cleanliness control and foreign material exclusion practices that shall ensure that: (i) the Materials when delivered are free from oil or grease (not being used as a preservative or protective coating), machine tailings, dirt, mill scale, weld splatter, residue, broken or loose parts, contaminants, loose fasteners, tags and labels (not permanently affixed to internals) or other foreign material that may adversely affect the operation of the Materials or may be introduced into interfacing equipment and systems; (ii) if the Materials are shipped with other parts (such as seals, gaskets, lubricants, mounting hardware), precautions should be taken to ensure smaller items cannot be introduced into openings or cavities of larger parts and equipment; (iii) where appropriate, every item included with a shipment should be identified in the packing list or by other means; (iv) if necessary, clearly visible protective devices such as caps, plugs or covers (protective devices shall be validated for material compatibility to guarantee no impact to the Materials provided (for example, protective devices containing halogens or heavy metals should not be used on stainless steel items)); and (v) if desiccants or other preservatives are used to protect the Materials, the affected part of equipment shall be clearly labeled or tagged with information including the type of preservative, its location, and any special instructions pertaining to its removal prior to installation or other applicable information such as quantity of desiccant packages.

Prior to shipping any radioactive material to any Company Site, Contractor must notify Radiation Protection (734-586-5302) no less than 48 hours in advance and inform them of what is being shipped, curie content, purchase order number and estimated time of arrival. Prior to receiving any material at any Company Site that might have been used at another nuclear facility, Contractor must contact Radiation Protection Department to survey the material prior to entering the protected area.

DELIVERY OF SUSPECT/COUNTERFEIT ITEMS

The delivery of suspect/counterfeit materials is of special concern to Company. If any materials specified in the Agreement are described using a part or model number, a product description, and/or industry standard referenced in the Agreement, Contractor shall assure that the materials supplied by Contractor meet all requirements of the latest version of the applicable manufacturer data sheet, description, and/or industry standard unless otherwise specified. If the Contractor is not the manufacturer of the materials, the Contractor shall make reasonable efforts to assure that the materials supplied under this Agreement are made by the original manufacturer and meet the applicable manufacturer data sheet or industry standard. Should Contractor desire to supply an alternate item that may not meet the requirements of this paragraph, Contractor shall notify Company of any exceptions and receive Company's written approval prior to shipment of the alternate materials to Company.

If suspect/counterfeit materials are furnished under this Agreement or are found in any of the materials delivered hereunder, Company may dispose of or return such materials to Seller in accordance with the warranty provisions applicable to the Agreement. The Seller shall promptly replace such suspect/counterfeit materials with items meeting the requirements of the Order. In the event the Seller knowingly supplied suspect/counterfeit materials, the Seller shall be liable for reasonable costs incurred by the Purchaser for the removal, replacement and reinstallation of such materials in accordance with the warranty provisions applicable to the Agreement.

INSURANCE

Company shall, without cost to Contractor, procure and maintain liability and property damage insurance coverage for "nuclear incidents" prior to fuel delivery and during plant operation, as described below:

A. Nuclear Liability Insurance

- (1) An agreement of indemnification as contemplated by Section 170 of Act (as defined below), as amended.
- (2) Self-Insurance or nuclear liability insurance from American Nuclear Insurers (ANI) or other, in such form and in such amount as shall meet the financial protection requirements of Section 170 of Act, as amended.

In the event that the nuclear liability protection provisions established by Section 170 of the Act, as amended, is repealed or changed, Company shall maintain in effect during the period of Plant operation comparable protection or insurance in limits which Company deems reasonable in the light of existing conditions for plants of similar size and character and in accordance with the practice then prevalent for such similar plants.

B. Nuclear Property Damage Insurance - Nuclear property damage insurance available from Nuclear Mutual Limited (NML) and other excess insurance in such form and in such amount deemed reasonable by Company.

INDEMNIFICATION

Company agrees to indemnify and hold harmless Contractor and its subcontractors for losses, claims, damages, or liabilities arising out of or from a "nuclear incident" as defined in the Atomic Energy Act of 1954 (the "Act"), as amended, and to the extent recovery is available under the Nuclear Liability Insurance provisions required by the Agreement, the foregoing shall in no manner restrict or limit Contractor's

or its subcontractor's obligations or liabilities under any other provision of the Agreement, except as such obligations or liabilities arise out of a "nuclear incident."

ADDITIONAL PROVISIONS

Contractor is encouraged to utilize employees who have been previously trained and screened at a Company nuclear plant, if possible, to expedite in-processing and assure the passing of training. Failure to pass initial training on the first attempt will result in remedial training, increased costs, and possible delayed schedules. Company is not responsible for increased costs due to failed training. All personnel working in the radiological restricted area are required to have base level radiation worker training and have accurate annual dose records.

Contractor and its personnel shall at all times comply with the Nuclear Generation Supplemental Terms and Conditions, as modified by Company from time to time.

FEDERAL REQUIREMENTS SCHEDULE

A. Company, as a federal contractor, requires that Contractor agree to be bound by and comply with the following clauses which are incorporated by reference herein and have the same force and effect as if set forth in full text.

(1) The following Federal Acquisition Regulation ("FAR") and Code of Federal Regulations ("CFR") clauses, as amended, are incorporated by reference in these terms and conditions unless Contractor is exempt thereunder: Equal Opportunity, FAR 52.222-26 (applies to all orders); Prohibition on Segregated Facilities, FAR 52.222-21 (applies to all orders); Anti-Kickback Procedures, FAR 52.203-7 (applies to all orders over \$100,000); Restrictions on Subcontractor Sales to the Government, FAR 52.203-6 (applies to all orders); Anti-kickback Procedures FAR 52.203-7 (applies to orders of \$150,000 or more); Combat Trafficking in Persons, FAR 52.222-50 (applies to orders of \$500,000 or more) , Equal Opportunity for Veterans, FAR 52.222-35 (applies to orders of \$150,000 or more); Equal Opportunities for Workers with Disabilities, FAR 52.222-36 (applies to orders of \$15,000 or more) and Privacy Training, FAR 52-224-3 (applies if Contractor's (or subcontractor's) employee(s) will have access to personally identifiable information (PII) or a system of records on individuals. . To the extent not exempt, Contractor shall abide by the requirements of 41 CFR 60-300.5(a) (applies to orders of \$100,000 or more) and 60-741.5(a) (applies to orders of \$10,000 or more). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities. The terms "Contractor," "Government" and "Contracting Officer" as used in the FAR clauses shall be deemed to refer to "Contractor," "Company" and "Company Representative", respectively.

(2) Except to the extent that this Agreement is exempt from any of these requirements, Contractor agrees to be bound by and comply with the clauses set forth at 48 CFR 52.219-8 (Utilization of Small Business Concerns) and 48 CFR 52.219-9 (Small Business Subcontracting Plan) (only if this Agreement exceeds \$700,000 and if Company requests submission of a Small Business Subcontracting Plan).

B. Contractor does hereby represent, warrant and covenant that:

(1) Contractor shall not cause Company or its affiliates to be in violation of the Foreign Corrupt Practices Act (15 U.S.C. Section 78dd-1, et. seq.) as amended (the "FCPA") or any other applicable law.

(2) With respect to its performance under the Agreement, Contractor and its owners, directors, officers, employees, and agents will not, directly or indirectly through third parties, pay, promise or offer to pay, or authorize the payment of, any money or give any promise or offer to give, or authorize the giving of anything of value to any individual, entity, or government for purposes of corruptly obtaining or retaining business for or with, or directing business to, any person, including, without limitation, Company or its affiliates.

(3) Contractor shall ensure that no part of any payment, compensation, reimbursement or fee paid by Company to Contractor will be used directly or indirectly as a corrupt payment, gratuity, emolument, bribe, kickback or other improper benefit.

(4) Contractor shall provide to Company and/or its representatives and advisors all supporting documents requested by Company pertaining to any expenses incurred, products provided, and/or services performed by Contractor and its agents pursuant to the Agreement to ensure compliance with the FCPA. Contractor understands and acknowledges that, notwithstanding any other provision contained in the Agreement, none of Company or any of its affiliates shall be obligated to reimburse any expense incurred or pay for any Work, in Company's reasonable opinion, (1) Contractor has failed to provide adequate documentation or information to confirm that an expense or charge did not violate the FCPA, or (2) an expense reimbursement or product/service payment would cause Company or any of its affiliates to be in violation of the FCPA.

USDOT PIPELINE FACILITY REQUIREMENTS SCHEDULE

A. Contractor shall comply with all applicable controlled substance and alcohol testing, education, and training requirements set forth by the U.S. Department of Transportation (DOT) and the Pipeline and Hazardous Materials Safety Administration (PHMSA) under 49 C.F.R. Part 40 and Part 1999 for employees or subcontractor's employees who actually perform, are ready to perform, or are immediately available to perform covered functions, including construction operation, maintenance or emergency-response functions on a regulated gas or hazardous material pipeline or LNG facility as defined therein. Contractor shall also comply with all applicable alcohol and controlled substance testing requirements set forth by the Federal Highway Administration (FHA) for employees or subcontractor's employees whose job requires a commercial driver's license.

B. Contractor and its Subcontractors shall maintain the records specified under such requirements and allow access to such records and to their property by Company, any duly authorized DOT, PHMSA or FHA official and any representative of any State agency charged with the duty of monitoring compliance with DOT, PHMSA or FHA requirements. Contractor shall monitor the compliance of all Subcontractors working under it, either directly or through subcontract, and Contractor shall include this compliance requirement in each of its subcontracts. Company reserves the right to require modifications to Contractor's compliance procedures if Contractor is found at any time to be out of compliance with DOT, PHMSA or FHA regulations, and the costs of such modifications shall be borne by Contractor. Contractor shall provide Company with its Management Information System (MIS) reports no later than March 1 for the previous calendar year.

C. If Contractor is performing Work on a pipeline facility that is an operations or maintenance task required by 49 C.F.R. Part 192 and the Work affects the operation or integrity of the pipeline (collectively, "Covered Tasks"), Contractor shall comply with the following requirements:

(1) Contractor shall develop and maintain, acquire, and/or participate in a written program to ensure that its employees are qualified to perform Covered Tasks encompassed within this Agreement (the "Operator Qualification Program" or "OQ Program"). The OQ Program shall be consistent with the requirements of 49 CFR Part 192, Subpart N Qualification of Pipeline Personnel, and DTE Gas Company Standard 801. At a minimum, Contractor's OQ Program shall:

(a) Ensure through evaluation that individuals performing covered tasks are qualified to perform the Covered Tasks, and recognize and react to abnormal operating conditions they may encounter while performing Covered Tasks.

(b) Allow individuals that are not qualified to perform a Covered Task to perform a Covered Task if directed and observed by an individual that is qualified. Qualified individuals shall be trained on their responsibility for directing and observing individuals performing Covered Tasks for which those individuals are not qualified.

(c) Suspend the qualification of an individual, if Contractor has reason to believe that the individual is no longer qualified to perform a Covered Task, or if the individual's actions or inactions may have contributed to a pipeline incident, or if the individual's actions or inactions cannot be ruled out as a contributing factor to an incident. The individual's qualification may be reinstated when Contractor has completed an investigation, and determined and documented the reason why the suspension no longer applies, or the individual's ability to perform the Covered Task has been established consistent with the documented evaluation process.

(d) Communicate changes that affect Covered Tasks to individuals performing those tasks, before the changes become effective.

(e) Maintain and provide records that demonstrate compliance with Contractor's OQ Program.

(2) Prior to the commencement of any Work, Contractor shall submit its OQ Program to Company and complete any related forms required by Company. Contractor's OQ Program shall be subject to audit by Company or its designee, at any time. Contractor shall fully cooperate during such audits, and make available copies of any documents, training and qualification materials, and records to support such audits, including but not limited to (1) the identity of the specific individuals employed by Contractor or any subcontractor performing the Covered Tasks, (2) the specific certification(s) of each such individual and (3) the expiration date of such certification. An accurate and current list of individual qualifications and the DTE Gas Distribution & Transmission Procedures must be on the job site at all times.

(3) Any changes in the identified individuals performing Covered Tasks must be promptly reported to Company together with any requisite qualifications. In no event shall any individual, whether employed by Contractor or any subcontractor, perform Covered Tasks outside of the scope of their respective qualifications.

(4) Contractor shall notify Company, within three working days, of any individual whose qualification is suspended. The circumstances leading up to the suspension and the results of any investigation or evaluation shall be provided to Company within 10 working days of completion of any investigation or evaluation.

(5) Company shall qualify Contractor's employees or verify that they are qualified to perform the Covered Tasks for joining plastic pipes and fittings, welding steel pipe and components, and applying proprietary engineered pipe repair systems such as Clockspring repair sleeves. Company shall notify Contractor of the schedule for testing and qualification. Contractor shall fully cooperate in such qualification. In the event Contractor cannot make employees available, consistent with the schedule for qualification or verification, Company may charge Contractor for necessary make up sessions.

(6) Company shall [make available to Contractor/provide to Contractor, in electronic or hardcopy form, copies of] Company's Distribution and Transmission (DTS) Standards and Distribution and Transmission (D&T) Procedures relevant to the work to be performed by Contractor. Contractor shall duplicate and distribute DTS Standards and D&T Procedures to qualified individuals performing the Covered Tasks. The current editions of D&T Procedures, the Plastic Pipe Joining Procedures, and Welding Procedures must be made available by Contractor on the job site whenever those Covered Tasks are being performed.

BACKGROUND INVESTIGATION REQUIREMENTS SCHEDULE

- A. Contractor must conduct a background check (as set forth herein) on all of its workers assigned to provide services to Company, prior to that respective worker starting work on Company's project.
- B. In performing the background checks, Contractor agrees to comply with all applicable local, state and federal laws, including the Fair Credit Reporting Act and agrees that such background check will be performed by a National Association of Professional Background Screeners Accredited Company.
- C. Background checks will include, but not limited to:
- Social Security Number (SSN) Trace;
 - Criminal history check in all federal, state, and county jurisdictions as revealed by address history on social security trace. Criminal search shall also include any name variations and/or aliases located on the social security trace. County records must be searched at the court level to maintain maximum possible accuracy. Automated county searches, commonly referred to as Bots, may not be used unless guaranteed to be equivalent by county court clerk.
 - US Patriot Act Watch Lists.
 - National Criminal Index Search to include State Sex Offender Registries; Office of Foreign Asset Control (OFAC).
 - Verification of Immigration Status, including valid I-9 Form where applicable. Note the Company expressly prohibits any contractor from employing any person on Company premises who does not have valid authorization to work in the United States.
 - U.S. law requires companies to employ only individuals who may legally work in the United States – either U.S. citizens, or foreign citizens who have the necessary authorization. Contractor must validate eligibility through E-Verify.
 - Driving History (where permitted by law and if contractor is required to operate a Company motor vehicle).
- D. Unless restricted by applicable law, all convictions for misdemeanors or felonies shall be reviewed by Contractor to determine whether the criminal conviction disqualifies the worker from working on Company's project.
- E. Examples of convictions that shall be carefully reviewed by Contractor for possible disqualification include, but are not limited to: crimes of dishonesty (i.e. theft, embezzlement, fraud, forgery, etc.) and violence (i.e. murder, rape, kidnapping, assault, robbery, stalking, harassment, etc.).
- F. In evaluating the results of background checks, Contractor shall consider factors such as the nature and severity of the crime, the length of time that has passed since the offense occurred, how the crime relates to the worker's proposed job responsibilities, truthfulness and completeness of the worker's disclosure of convictions, and evidence of rehabilitation and subsequent job history.
- G. Contractor provides Company an ongoing representation and warranty that it has conducted background checks consistent with the requirements set forth in this Schedule. Further, if Contractor breaches this warranty, it agrees that it will make Company whole for any cost, claim, fine, or penalty that Company may incur as a result, directly or indirectly, from a breach of this warranty.
- H. Contractor covenants and agrees that it shall defend, indemnify and hold Company, its parent, and all of their officers, agents and employees (each a, "Company Indemnitee") harmless for any claim, loss, damage, cost, charge, expense, lien, settlement or judgment, including interest thereon, including employees of Contractor, its subcontractors and suppliers, or property or both, arising directly or indirectly out of or in connection with Contractor's or any of its subcontractor's or supplier's breach of the warranty and representation set forth in this Schedule. In the event any suit or other proceedings for any claim, loss, damage, cost, charge or expense covered by Contractor's foregoing indemnity shall be brought against any Company Indemnitee, Contractor hereby covenants and agrees to assume the defense thereof and defend the same at Contractor's own expense and to pay any and all costs, charges, attorney's fees, and other expenses, and any and all judgments that may be incurred by or obtained against any Company Indemnitee's in such suits or other proceedings.
- I. Federal and state laws and/or regulations may require Contractor to conduct periodic background checks for Temporary Personnel assigned to certain positions (e.g., positions requiring Nuclear, NERC or TWIC access). Company may also require Contractor or Contractor employees be subject to additional background investigative activities completed by the Company or other 3rd party vendors, to satisfy the federal regulations for access to a nuclear facility or other NERC / TWIC regulated assets. Company will notify Contractor of any assignments requiring periodic updates or re-completion of background check activities. If any worker moves from one assignment to another, Contractor shall verify with Company whether a re-analysis is required.

EXHIBIT 1 – SALES & USE TAX AFFIDAVIT

SALES & USE TAX AFFIDAVIT

(STATE OF MICHIGAN)
) ss
COUNTY OF)

The Undersigned, _____, hereby represents that on _____, 20__ it was awarded a contract by _____ (the “Company”), to construct a project in accordance with the terms and conditions of Contract No. _____ (“Contract”); and Undersigned further represents that the subject work has now been accomplished and the Contract has now been completed. Undersigned hereby warrants and certifies that the payments made by Company to Undersigned under Contract were inclusive of all applicable sales and use taxes arising by reason of Contract and that Undersigned has fully paid and remitted to the proper taxing authority all said sales and use taxes. Undersigned further agrees that, if any claim should hereinafter arise, it shall assume responsibility for the same immediately upon request to do so by the Company. This affidavit is freely and voluntarily given with full knowledge of the facts, on this ___day of _____, 20__.

(CONTRACTOR)

By: _____

Its:

Subscribed and sworn to before me, a

Notary Public in and for _____ County, State of _____,
on this _____ day of _____, 20__.

Notary Public:

My Commission Expires: _____