

PROFESSIONAL SERVICES CONTRACT

**BETWEEN
PACIFICORP**

AND

FOR

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1. DEFINITIONS	3
ARTICLE 2. DESCRIPTION OF WORK	4
ARTICLE 3. PERIOD OF PERFORMANCE	4
ARTICLE 4. CONSIDERATION AND PAYMENT	4
ARTICLE 5. TAXES	4
ARTICLE 6. TRAVEL	5
ARTICLE 7. ACCOUNTING AND AUDITING	5
ARTICLE 8. CREDIT REQUIREMENTS	5
ARTICLE 9. SECURITY	5
ARTICLE 10. WITHHOLDING PAYMENT	5
ARTICLE 11. DESIGNATED REPRESENTATIVES AND NOTICES	6
ARTICLE 12. EXAMINATION OF WORK AND PROGRESS REPORTS	6
ARTICLE 13. PROFESSIONAL RESPONSIBILITY	6
ARTICLE 14. CHANGES	6
ARTICLE 15. INSURANCE	6
ARTICLE 16. INDEMNIFICATION	8
ARTICLE 17. CHANGES IN PERSONNEL	8
ARTICLE 18. CONSULTANT’S PERSONNEL; DRUGS, ALCOHOL AND FIREARMS	9
ARTICLE 19. ACCESS TO COMPANY’S FACILITIES	9
ARTICLE 20. SUBSTANCE ABUSE; DRUG AND ALCOHOL POLICY	10
ARTICLE 21. DEPARTMENT OF TRANSPORTATION	10
ARTICLE 22. BUSINESS ETHICS	10
ARTICLE 23. REVIEW OF DELIVERABLES	11
ARTICLE 24. SAFETY AND SITE REGULATIONS	11
ARTICLE 25. PROGRESS MEETINGS	11
ARTICLE 26. COOPERATION WITH OTHERS	11
ARTICLE 27. LIENS	11
ARTICLE 28. CONFLICTS, ERRORS, OMISSIONS, OR DISCREPANCIES IN CONTRACT DOCUMENTS	12
ARTICLE 29. CLAIM NOTICE AND RESOLUTION PROCEDURE	12
ARTICLE 30. SUSPENSION OF WORK	12
ARTICLE 31. TERMINATION FOR CONVENIENCE	12
ARTICLE 32. TERMINATION FOR CAUSE	12
ARTICLE 33. DELAYS	13

ARTICLE 34. COMPLIANCE WITH LAWS 14

ARTICLE 35. INDEPENDENT CONTRACTOR 14

ARTICLE 36. RELEASE OF INFORMATION; ADVERTISING AND PROMOTION 14

ARTICLE 37. CONFIDENTIAL INFORMATION; NONDISCLOSURE 14

ARTICLE 38. OWNERSHIP OF DESIGNS, DRAWINGS AND WORK PRODUCT 15

ARTICLE 39. PATENT AND COPYRIGHT INDEMNITY 15

ARTICLE 40. CYBER SECURITY 16

ARTICLE 41. ASSIGNMENT 19

ARTICLE 42. SUBCONTRACTS 19

ARTICLE 43. NON-EXCLUSIVE RIGHTS 19

ARTICLE 44. NONWAIVER 19

ARTICLE 45. SEVERABILITY 20

ARTICLE 46. APPLICABLE LAW AND VENUE 20

ARTICLE 47. ENTIRE AGREEMENT; DOCUMENTS INCORPORATED BY REFERENCE 20

ARTICLE 48. EXECUTION AND EFFECTIVE DATE 20

EXHIBITS

- EXHIBIT A, SCOPE OF WORK
 - APPENDIX 1: CONTRACTOR VENDOR INFORMATION FORM
 - APPENDIX 2: SPECIAL CONDITIONS – PACIFICORP
- EXHIBIT B, PRICING SCHEDULE
- EXHIBIT C, LETTER OF CREDIT REQUIREMENTS
- EXHIBIT D, FORM OF RELEASE/PURCHASE ORDER
- EXHIBIT E, STATUTORY FORM OF LIEN AND CLAIM RELEASE FOR CALIFORNIA WORK
- EXHIBIT F, CONTRACTOR HEALTH, SAFETY AND ENVIRONMENTAL
- EXHIBIT G, EXPENSE GUIDELINES
- EXHIBIT H, DIVERSITY SUBCONTRACTOR SPEND REPORT

PROFESSIONAL SERVICES CONTRACT

BETWEEN

PACIFICORP

AND

FOR

PARTIES

The Parties to this Professional Services Contract (“Contract”) are **PACIFICORP** (hereinafter “Company”), whose address is 825 NE Multnomah Street, Portland, Oregon 97232, and _____ (hereinafter “Consultant”), whose address is _____. Company and Consultant are hereinafter sometimes collectively referred to as “Parties” and individually as a “Party,” as the context may require.

ARTICLE 1. DEFINITIONS

BES Cyber System Information (BCSI) shall mean information concerning CIPS Covered Assets that: (i) relates to the production, generation or transmission of energy; (ii) could be useful to a person planning an attack on critical infrastructure; and (iii) provides strategic information beyond the geographic location of the critical asset, and which is identified as BCSI by Company. BCSI also includes any information concerning CIPS Covered Assets that has been identified by Company as Critical Infrastructure Information (or CII).

CIPS Covered Assets shall mean any assets identified by Company as “critical assets,” “critical cyber assets,” “BES assets,” “BES cyber assets,” or “BES cyber systems,” as those terms are defined in the North American Electric Reliability Corporation (NERC) Glossary of Terms. “BES” refers to the “Bulk Electric System” as defined by NERC.

Company’s Facilities shall mean any facilities owned, operated or otherwise controlled by Company which require Company authorization to obtain access.

Deliverables shall mean those items to be developed and delivered by Consultant as set forth in the Scope of Work.

Force Majeure Event shall mean a delay caused by any national or general strikes (but excluding strikes relating solely to the work force of Company, Consultant or a Subcontractor), fires, riots, acts of God, acts of the public enemy, floods, acts of terrorism, unavoidable transportation accidents or embargoes, or other events which are: (i) not reasonably foreseeable as of the date the Contract was executed; and (ii) attributable to a cause beyond the control and without the fault or negligence of the Party incurring such delay.

Material Adverse Change or MAC shall mean, with respect to Consultant, if Consultant, in the reasonable opinion of Company, has experienced a material adverse change in Consultant’s financial condition or Consultant’s ability to fulfill its obligations under this Contract, including, but not limited to, any such change that results in its inability to satisfy ARTICLE 8. CREDIT REQUIREMENTS or ARTICLE 9. SECURITY, including any event or circumstance that would give Company the right to terminate for cause pursuant to ARTICLE 32. TERMINATION FOR CAUSE.

Net Replacement Costs shall mean the “cost to cover” remedy available to Company in the event of a default by Consultant under this Contract. The Net Replacement Costs shall be: (i) the incremental costs incurred by Company to complete the Work itself or through use of a replacement consultant; plus (ii) a sum for additional managerial, administrative, and other reasonable costs Company incurs as a result of Consultant’s default.

Notice shall mean a formal written communication which, pursuant to the Contract, one Party must deliver to the other in order to invoke a Contract right set forth herein.

Personnel shall mean the employees of Consultant or any of its agents, Subcontractors, or independent contractors who are employed to perform Work under this Contract.

Scope of Work shall be detailed in this Contract, including all exhibits hereto and all standards, specifications, criteria and other requirements which are incorporated by reference.

Sensitive Personnel shall mean all Personnel with authorized unescorted physical access or authorized cyber access to Company's CIPS Covered Assets.

Service(s) shall mean any labor, skill, or advice provided to Company pursuant to this Contract.

Subcontractor shall mean any entity or person (including subcontractors at any tier) having an agreement with Consultant or any other Subcontractor to perform a portion of Consultant's obligations under this Contract.

Unescorted Personnel shall mean all Personnel with authorized unescorted physical access to Company's Facilities.

Work shall mean all obligations, duties, requirements, and responsibilities for the successful completion of the Contract by Consultant, including furnishing of all Services, Deliverables and incidental materials and equipment in accordance with the terms and conditions set forth in the Contract.

Workers' Compensation Laws shall mean the statutory requirements of the state and/or federal regulations (e.g., FELA, USL&H, Jones Act) where the Work is to be performed.

Work Site shall mean the location or locations on Company's premises where the Work is to be performed.

ARTICLE 2. DESCRIPTION OF WORK

Consultant shall perform the Work in accordance with the Scope of Work.

Except as otherwise provided in this Contract, Consultant shall be solely responsible for the means, methods, and procedures of performing the Work.

ARTICLE 3. PERIOD OF PERFORMANCE

Time is of the essence. Consultant shall commence performance upon execution of this Contract by Company and shall complete the Work not later than _____. Unless earlier terminated as provided herein, this Contract shall continue in effect until final completion of all Work set forth herein; provided, however, that all warranties, indemnities, insurance requirements, confidentiality obligations, or other obligations which by their own terms are intended to survive the completion of the Work shall continue in full force and effect after such date.

ARTICLE 4. CONSIDERATION AND PAYMENT

As full consideration for the satisfactory performance of Consultant's obligations under this Contract, Company will pay Consultant in accordance with Exhibit B.

Consultant shall invoice Company on a monthly basis, and shall submit each invoice to the Company designated representative. All invoices shall include each employee's name and skill classification responsible for Work under said invoice, hours worked on the project (billable hours), hourly rate, and a subtotal cost by skill classification. Consultant shall not bill Company for a higher skill classification than is required for the Work. Consultant shall furnish reasonable backup detail supporting each invoice including, without limitation, receipts supporting expenses that are reimbursed pursuant to ARTICLE 6. TRAVEL. Consultant shall identify and clearly set forth on the invoice any discount for early payment.

Company will pay all undisputed invoice amounts within sixty (60) calendar days of receipt of a proper invoice and Company's acceptance of the Work. Payment shall be contingent upon Consultant's satisfactory compliance with the invoicing requirements.

Company may offset any such payment to reflect amounts owing from Consultant to Company or its subsidiaries pursuant to this Contract. In addition, Company may withhold all payments otherwise due Consultant until such time as Consultant has provided any Default Security required by this Contract.

Upon request by Company, Consultant shall also provide lien and claim releases executed by Consultant, its Subcontractors and their suppliers through the date of each invoice submitted.

ARTICLE 5. TAXES

The consideration to be paid under the Contract includes all taxes arising out of Consultant's performance hereunder, including without limitation state and local sales and use taxes, value-added taxes, import duties, payroll taxes, income taxes and other taxes relating to the performance of the Work.

ARTICLE 6. TRAVEL

If required for the Work, pre-approved expenses for travel and related expenses will be reimbursed at Consultant's cost to the extent that such expenses are supported by original receipts or invoices and are in accordance with Company's travel policy attached hereto as Exhibit G. Such expenses will be invoiced as separate line items on any applicable invoice.

ARTICLE 7. ACCOUNTING AND AUDITING

Consultant shall keep accurate and complete accounting records in support of any cost-based billings and claims to Company in accordance with generally accepted accounting principles. Company, or its audit representatives, shall have the right at any reasonable time or times to examine, audit, and copy the records, vouchers, and other source documents which relate to any claim for compensation other than pricing elements which are fixed in amount by this Contract. Such documents shall be available for examination, audit and reproduction for three (3) years after completion or termination of this Contract.

Consultant shall assist Company with preparing necessary audit material and will allow Company to review any work papers prepared by independent auditors as allowed by professional standards.

Audit findings by Company's representative will be considered to be final and conclusive for the period audited. Any over collections shall be returned to Company within thirty (30) calendar days from date of Notice of overcharge.

ARTICLE 8. CREDIT REQUIREMENTS

Consultant shall meet the requirements of either clause (i) or clause (ii) below: (i) Consultant maintains a senior unsecured debt rating from Standard & Poor's of BBB- or better; or (ii) if Consultant does not maintain a satisfactory debt rating, Consultant meets ALL of the following credit standards: a) tangible net worth ten (10) times the projected maximum liability of Consultant under this Contract; b) no change in the condition of its earnings, net worth, or working capital over the last twenty-four (24) months, which would reasonably be anticipated to impair Consultant's ability to meet its obligations under this Contract; and c) Consultant is not in default under any of its other agreements and is current on all of its financial obligations.

If requested by Company, Consultant shall within thirty (30) calendar days provide Company with copies of its most recent annual and quarterly financial statements prepared in accordance with generally accepted accounting principles.

ARTICLE 9. SECURITY

In the event Consultant is unable to satisfy the credit requirements set forth in ARTICLE 8. CREDIT REQUIREMENTS at any time during the performance of the Work, or if Consultant experiences a Material Adverse Change at any time during such performance, then Consultant shall provide Company with security against defaults by Consultant under this Contract in such form and amount as may be reasonably required by Company ("Default Security"), and pursuant to such additional agreements or instruments as may be reasonably required by Company, including but not limited to letters of credit, third party guaranties, escrow accounts, labor and material payment bonds and/or performance bonds. Company may at any time, at its own discretion or pursuant to a request by Consultant, recalculate the amount of Default Security required pursuant to this Article, in which case Company shall increase or decrease the existing amount of Default Security, as appropriate. At no time shall the amount of Default Security to which Company is entitled pursuant to this Article be less than Company's Net Replacement Costs.

The terms of any letter of credit required by Company shall conform to the attached Exhibit C, as well as the requirements of this Contract and be issued by a bank acceptable to Company. The letter of credit shall provide for payment to Company of the letter of credit stated amount if Consultant defaults under the terms of this Contract. Company shall have the right to call the entire amount of the letter of credit if Consultant has not renewed the letter of credit thirty (30) calendar days prior to its expiration.

Consultant's expenses of complying with additional Default Security obligations as set forth in this Article shall be borne by Consultant.

ARTICLE 10. WITHHOLDING PAYMENT

Company may, without limiting any other rights or remedies Company may have, withhold from payments amounts which reflect the reasonable cost to repair or replace non-conforming or defective Work or the value of any claim which Company has against Consultant under the Contract. Company may also retain from any payment sufficient funds to discharge any delinquent accounts of Consultant for which liens on Company's property have been or can be filed, and Company may at any time pay therefrom for Consultant's account such amounts as are, in the reasonable opinion of Company, due thereon, including any sums due under any federal or state law.

ARTICLE 11. DESIGNATED REPRESENTATIVES AND NOTICES

Prior to the commencement of the Work, each Party shall designate a representative authorized to act on its respective behalf and shall advise the other Party in writing of the name, address and telephone number of such designated representative, and shall inform the other Party of any subsequent change in such designation. All communications relating to the day-to-day activities under this Contract shall be exchanged between such designated representatives through any agreed form of communication.

Any formal Notice required to be delivered in writing under the terms of this Contract shall be delivered to the representative of the other Party as designated below. All formal written Notices shall be: (i) hand delivered; (ii) deposited in the mail, properly stamped with the required postage; (iii) sent via registered or certified mail; or (iv) sent via recognized overnight courier service. The Parties' addresses for purposes of Notice shall be as set forth below:

If to Company: _____ _____ _____ Attn: _____ Telephone: _____	If to Consultant: _____ _____ _____ Attn: _____ Telephone: _____
--	---

Either Party may change the name or address of the designated recipient of Notices by delivery of a Notice of such change as provided for in this Article.

ARTICLE 12. EXAMINATION OF WORK AND PROGRESS REPORTS

Consultant shall submit periodic progress reports as requested by Company. Company, its agents or representatives may visit Consultant's office at any reasonable time to determine the status of ongoing Work required by this Contract.

All Work will be subject to examination at any reasonable time or times by Company, which shall have the right to reject unsatisfactory Work. Neither examination of Work nor the lack of same nor acceptance of the Work by Company nor payment therefor shall relieve Consultant from any of its obligations under this Contract.

ARTICLE 13. PROFESSIONAL RESPONSIBILITY

Consultant shall perform the Work in accordance with the Scope of Work and using the standards of care, skill, and diligence normally provided by a professional in the performance of similar Services, and shall comply with all laws, codes and standards applicable to the Work.

In the event of Consultant's failure to do so, Consultant shall, upon Notice by Company, promptly reperform the Work and correct the defect at Consultant's sole cost. Consultant's obligation to correct and reperform its Work shall be in addition to, and not in lieu of, any other right that Company may have.

ARTICLE 14. CHANGES

Company may at any time in writing direct changes and/or additions within the general scope of this Contract or direct the omission of or variation in Work. If any such direction results in a material change in the amount or character of the Work, an equitable adjustment in the Contract price and/or other such provisions of this Contract as may be affected shall be made and this Contract shall be modified in writing accordingly. Any claim by Consultant for an adjustment under this Article shall be processed in accordance with the provisions of ARTICLE 29. CLAIM NOTICE AND RESOLUTION PROCEDURE.

No change shall be binding upon Company until a change order is executed by an authorized representative of Company which expressly states that it constitutes a change order to this Contract. The issuance of information, advice, approvals, or instructions by anyone other than the authorized Company representative shall not constitute an authorized change order pursuant to this Article.

ARTICLE 15. INSURANCE

Without limiting any liabilities or any other obligations of Consultant, Consultant shall, prior to commencing Work, secure and continuously carry with insurers having an A.M. Best Insurance Reports rating of A-:VII or better such insurance as will protect

Consultant from liability and claims for injuries and damages which may arise out of or result from Consultant's operations under the Contract and for which Consultant may be legally liable, whether such operations are by Consultant or a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Consultant shall insure the risks associated with the Work and this Contract with minimum coverages and limits as set forth below:

Workers' Compensation. Consultant shall comply with all applicable workers' compensation laws and shall furnish proof thereof satisfactory to Company prior to commencing Work. If Work is to be performed in Washington or Wyoming, Consultant will participate in the appropriate state fund(s) to cover all eligible employees and provide a stop gap (employer's liability) endorsement. Coverage should also provide applicable federal regulations (including, without limitation, FELA, USL&H and the Jones Act).

Employers' Liability. Consultant shall maintain employers' liability insurance with limits not less than \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 disease policy limit.

Commercial General Liability. Consultant shall maintain commercial general liability insurance on the most recently approved ISO policy form, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate (on a per location and/or per job basis) and shall include the following coverages:

- a. Premises and operations coverage
- b. Independent contractor's coverage
- c. Contractual liability
- d. Products and completed operations coverage, maintained for at least **2 years** for post-completion losses
- e. Broad form property damage liability
- f. Personal and advertising injury liability, with the contractual exclusion removed
- g. Sudden and accidental pollution liability, as applicable

Business Automobile Liability. Consultant shall maintain business automobile liability insurance on the most recently approved ISO policy form, or its equivalent, with a minimum single limit of \$1,000,000 each accident for bodily injury and property damage including sudden and accidental pollution liability, with respect to Consultant's vehicles whether owned, hired or non-owned, assigned to or used in the performance of the Work.

Professional Liability. Consultant shall maintain professional liability insurance covering damages arising out of negligent acts, errors, or omissions committed by Consultant in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Consultant shall maintain this policy for a minimum of two (2) years after completion of the Work or shall arrange for a two (2) year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of Work or Services under this Contract and caused by any error, omission for which the Consultant is held liable.

Umbrella or Excess Liability. Consultant shall maintain umbrella or excess liability insurance with a minimum limit of \$5,000,000 each occurrence/aggregate where applicable on a following form basis to be excess of the insurance coverage and limits required in employers' liability insurance, commercial general liability insurance and business automobile liability insurance above. Consultant shall provide Notice to Company, if at any time the full umbrella limit required under this Contract is not available, and will purchase additional limits, if requested by Company.

Company does not represent that the insurance coverages specified herein (whether in scope of coverage or amounts of coverage) are adequate to protect the obligations of Consultant, and Consultant shall be solely responsible for any deficiencies thereof.

Except for workers' compensation and professional liability insurance, the policies required herein shall include provisions or endorsements naming Company, its parent, divisions, affiliates, subsidiary companies, co-lessees, co-venturers, officers, directors, agents, employees, servants and insurers as additional insureds or loss payees, as applicable to specific insurance coverage. The commercial general liability additional insured endorsement shall be ISO Form CG 20 10 or its equivalent.

To the extent of Consultant's negligent acts or omissions, all policies required by this Contract shall include: (i) provisions that such insurance is primary insurance with respect to the interests of Company and that any other insurance maintained by Company (including self-insurance) is excess and not contributory insurance with the insurance required hereunder; and (ii) provisions that the policy contain a cross liability or severability of interest clause or endorsement in the commercial general liability and automobile liability coverage. Unless prohibited by applicable law, all required insurance policies (except professional liability) shall contain provisions that the insurer will have no right of recovery or subrogation against Company, its parent, divisions, affiliates, subsidiary companies, co-lessees or co-venturers, agents, directors, officers, employees, servants,

and insurers, it being the intention of the Parties that the insurance as effected shall protect all of the above-referenced entities evidenced by waiver of subrogation wording.

A certificate of insurance shall be furnished to Company confirming the issuance of such insurance prior to commencement of Work by Consultant. Should a loss arise during the term of the Contract that may give rise to a claim against Consultant and/or Company as an additional insured, Consultant shall deliver to Company (or cause to be delivered to Company) certified copies of such insurance policies. Consultant shall not cancel or reduce limits of liability without (i) ten (10) calendar days prior written Notice to Company if canceled for nonpayment of premium; or (ii) thirty (30) calendar days prior written Notice to Company if canceled for any other reason. Lack of notification shall be considered a material breach of this Contract.

Consultant shall require Subcontractors who perform Work at the Work Site to carry liability insurance (auto, commercial general liability and excess) and workers' compensation/employer's liability insurance commensurate with their respective scopes of work. Consultant shall remain responsible for any claims, lawsuits, losses and expenses included defense costs that exceed any of its Subcontractors' insurance limits or for uninsured claims or losses.

ARTICLE 16. INDEMNIFICATION

Consultant specifically and expressly agrees to indemnify, defend, and hold harmless Company and its officers, directors, employees and agents (hereinafter collectively "Indemnitees") against and from any and all claims, demands, suits, losses, costs and damages of every kind and description, including attorneys' fees and/or litigation expenses, brought or made against or incurred by any of the Indemnitees resulting from or arising out of the acts, errors or omissions of Consultant, its employees, agents, representatives or Subcontractors of any tier, their employees, agents or representatives in the performance or nonperformance of Consultant's obligations under this Contract or in any way related to this Contract. The indemnity obligations under this Article shall include without limitation:

- a. Loss of or damage to any property of Company, Consultant or any third party;
- b. Bodily injury to, or death of any person(s), including without limitation employees of Company, or of Consultant or its Subcontractors of any tier; and
- c. Claims arising out of workers' compensation, unemployment compensation, or similar such laws or obligations applicable to employees of Consultant or its Subcontractors of any tier.

Consultant's indemnity obligations owing to Indemnitees under this Article are not limited by any applicable insurance coverage identified in ARTICLE 15. INSURANCE. Consultant's indemnity obligation under this Article shall not extend to any liability caused by the sole negligence of any of the Indemnitees.

For Work performed in the States of Oregon and Washington, Consultant's indemnity obligations under this Article shall extend only to liability for damage arising out of death or bodily injury to persons or damage to property to the extent that the death or bodily injury to persons or damage to property arises out of the fault of Consultant, or the fault of Consultant's agents, representatives or Subcontractors.

To the extent applicable, Consultant specifically and expressly waives any immunity under either Industrial Insurance, Title 51, RCW, or Workers' Compensation Law, Chapter 656, ORS, and acknowledges that this waiver was mutually negotiated by the Parties herein.

The invalidity, in whole or in part, of any of the foregoing paragraphs will not affect the remainder of such paragraph or any other paragraphs in this Article.

ARTICLE 17. CHANGES IN PERSONNEL

Prior to: (i) changing or replacing any "key" Personnel, as identified in this Contract or in Consultant's proposal for the Work; or (ii) changing any classification, grade or rate of any Personnel working on the Contract, Consultant shall notify Company of the proposed replacement/change before executing such replacement/change, and obtain Company's prior written approval to such replacement/change. Any replacement Personnel shall have the capabilities equivalent to or better than the person replaced. If Consultant replaces or changes the classification, grade or rate of any person for performance of the Work described in the Contract, without the express approval of Company, then Consultant shall bear all costs associated with any and all such replacements and changes, and said costs shall not be reimbursable from Company.

ARTICLE 18. CONSULTANT'S PERSONNEL; DRUGS, ALCOHOL AND FIREARMS

Consultant shall employ in the performance of the Work only persons qualified for the same. Consultant shall at all times enforce strict discipline and good order among its employees and the employees of any Subcontractor of any tier. Consultant shall not permit or allow the introduction or use of any firearms, illegal drugs or intoxicating liquor upon the Work Site under this Contract, or upon any of the grounds occupied, controlled, or used by Consultant in the performance of the Work. Consultant shall immediately remove from the Work, whenever requested by Company, any person considered by Company to be incompetent, insubordinate, careless, disorderly, in violation of the above restriction on firearms, illegal drugs or intoxicating liquor, or under the influence of illegal drugs or intoxicating liquor, and such person shall not again be employed in the performance of the Work herein without the consent of Company.

ARTICLE 19. ACCESS TO COMPANY'S FACILITIES**19.1 Requirements for Unescorted Personnel and Sensitive Personnel**

Access to Company controlled areas is granted on an as-needed basis only in accordance with Company's internal badge and access policy. Additionally, Company is required to comply with certain of NERC's federally mandated critical infrastructure protection standards (CIPS) adopted to ensure that electric utilities, as part of the nation's critical infrastructure, are able to sustain and secure against vulnerabilities that may threaten the bulk electric system and the utilities that operate it. Company shall specify in the Scope of Work whether or not the Work under this Contract requires either: (i) authorized unescorted physical access to Company's Facilities (*i.e.*, use of Unescorted Personnel); or (ii) authorized unescorted physical access or authorized cyber access to Company's CIPS Covered Assets (*i.e.*, use of Sensitive Personnel). For all Personnel who require either such access, Consultant shall:

- a. Conduct, at Consultant's cost and expense, a Personnel risk assessment to include at a minimum an identity verification and seven-year criminal background check for the current residence and past locations of residence of all Unescorted Personnel and Sensitive Personnel. All background checks will be conducted in accordance with federal, state, provincial and local laws, and subject to existing collective bargaining unit agreements or other agreements, if any. A background check completed within two (2) years prior to the date the Consultant signed a Contractor/Vendor Information Form for each such person will be considered valid. Following the initial background check, updates shall be performed no less frequently than every seven (7) years or upon request by Company. In the event Company notifies Consultant of impending expiration of the background check of any Unescorted Personnel or Sensitive Personnel, Consultant shall provide an updated Contractor/Vendor Information Form reflecting a refreshed background check within twenty (20) days of receipt of the Notice in order to avoid revocation of such person's access. An appropriate authorization form must be signed by each of the Unescorted Personnel and Sensitive Personnel prior to a background check being conducted, acknowledging that the background check is being conducted and authorizing the information obtained to be provided to Company;
- b. Ensure that Unescorted Personnel and Sensitive Personnel have passed the background checks outlined in subsection 19.1(a) prior to requesting unescorted physical access and/or cyber access to Company's Facilities and/or CIPS Covered Assets, as applicable. In the event any such person: (i) is currently under indictment for a crime punishable by imprisonment for a term exceeding one year; (ii) has been convicted (within the past seven years) in any court of a crime punishable by imprisonment for a term exceeding one year; (iii) is currently a fugitive of justice; or (iv) is an alien illegally or unlawfully in the United States, such person shall be considered a "restricted person" and may not be Unescorted Personnel or Sensitive Personnel without prior written consent from Company. In the event any such person's background check reveals any residency gap of six (6) consecutive months or more, Contractor shall review, evaluate, and document any such residency gap to ensure that it does not pose a risk to Company's CIPS Covered Assets, prior to making a determination that Unescorted Personnel and Sensitive Personnel have passed the background check;
- c. Ensure that Unescorted Personnel and Sensitive Personnel complete Company provided or approved initial CIPS and Standards of Conduct compliance training prior to requesting unescorted physical access and/or cyber access to Company's Facilities and/or CIPS Covered Assets, as applicable;
- d. Ensure that Unescorted Personnel and Sensitive Personnel have passed Consultant's drug and alcohol exam and are in compliance with Consultant's substance abuse/drug and alcohol policy as outlined in ARTICLE 20. SUBSTANCE ABUSE; DRUG AND ALCOHOL POLICY; and

- e. Keep accurate and detailed documentation to confirm completion dates for background checks and all CIPS and Standards of Conduct compliance training (initial and annual training, to the extent applicable), and certify to Company such documentation by completing a Contractor/Vendor Information Form, attached hereto as Exhibit A, Appendix 1, for each Unescorted Personnel or Sensitive Personnel. Company has the right to audit Consultant's records supporting each Contractor/Vendor Information Form submitted to Company and to verify that the requisite background checks and CIPS and Standards of Conduct compliance training were performed. Consultant shall provide Company with all requested records supporting Contractor/Vendor Information forms within a reasonable time after receiving such a request, and in the form requested by Company, but not longer than three (3) business days following the date of such request.

Consultant shall not allow any Unescorted Personnel or Sensitive Personnel who have not met the foregoing requirements of this subsection 19.1 to perform Work, unless Consultant has received prior written consent from Company.

19.2 Additional Access Requirements Specific to Sensitive Personnel

In addition to the access requirements outlined in subsection 19.1, with respect to all Sensitive Personnel, Consultant also shall:

- a. Ensure that Sensitive Personnel (and any Personnel with access to BCSI) are informed of and comply with Company's BCSI requirements contained in any confidentiality agreement previously executed by Consultant as well as the BCSI requirements set forth herein in ARTICLE 37. CONFIDENTIAL INFORMATION; NONDISCLOSURE;
- b. In addition to the initial CIPS and Standards of Conduct compliance training requirement outlined in subsection 19.1(c), ensure that Sensitive Personnel complete annual Company provided or approved CIPS compliance training within Company's prescribed training window; and
- c. Immediately upon either (i) Sensitive Personnel termination actions or (ii) all other changes in the status of Sensitive Personnel who no longer require access, report such termination or change in status to the Company's Enterprise Service Desk (ESD). The ESD is available 24 hours a day by calling either (503) 813-5555 or (801) 220-5555.

Consultant shall not allow any Sensitive Personnel who have not met the foregoing requirements of this subsection 19.2 to perform Work, unless Consultant has received prior written consent from Company.

ARTICLE 20. SUBSTANCE ABUSE; DRUG AND ALCOHOL POLICY

- a. Consultant shall have and ensure compliance with a substance abuse/drug and alcohol policy that complies with all applicable federal, state and/or local statutes or regulations. Consultant shall subject each of the Personnel to a drug test at Consultant's sole cost and expense. Such drug test shall, at a minimum, be a five (5) Panel Drug Test, which should be recognizable at testing labs as a "SamHSA5 panel at 50NG – THC cut-off".
- b. For any Personnel who have had a recent drug test, such recent drug test shall be documented pursuant to the previous Article. Consultant warrants that Consultant and the Personnel are in compliance with Consultant's substance abuse/drug and alcohol policy.
- c. During the course of Work performed under this Contract, Consultant shall keep accurate and detailed documentation of its drug policy and Personnel drug tests, which it shall submit to Company upon request.
- d. Consultant shall designate one person to be responsible for compliance with the requirements of this Article and all reporting and inquiries shall be made to a duly authorized representative of Company in a timely manner.

ARTICLE 21. DEPARTMENT OF TRANSPORTATION

Consultant shall ensure Department of Transportation compliance, including but not limited to valid driver's license, equipment inspections, hours of service and all appropriate documentation for any Personnel who may drive while on assignment to Company.

ARTICLE 22. BUSINESS ETHICS

Consultant, its employees, officers, agents, representatives and Subcontractors shall at all times maintain the highest ethical standards and avoid conflicts of interest in the performance of Consultant's obligations under this Contract. In conjunction with its performance of the Work, Consultant and its employees, officers, agents and representatives shall comply with, and cause its Subcontractors and their respective employees, officers, agents and representatives to comply with, all applicable laws, statutes, regulations and other requirements prohibiting bribery, corruption, kick-backs or similar unethical practices including, without limitation, the United States Foreign Corrupt Practices Act, the United Kingdom Bribery Act 2010, and the Company Code of Business Conduct. Without limiting the generality of the foregoing, Consultant specifically represents and warrants that

neither Consultant nor any Subcontractor employees, officers, representatives or other agents of Consultant have made or will make any payment, or have given or will give anything of value, in either case to any government official (including any officer or employee of any governmental authority) to influence his, her, or its decision or to gain any other advantage for Company or Consultant in connection with the Work to be performed hereunder. Consultant shall maintain and cause to be maintained effective accounting procedures and internal controls necessary to record all expenditures in connection with this Contract and to verify Consultant's compliance with this Article. Company shall be permitted to audit such records as reasonably necessary to confirm Consultant's compliance with this Article. Consultant shall immediately provide notice to Company of any facts, circumstances or allegations that constitute or might constitute a breach of this Article and shall cooperate with Company's subsequent investigation of such matters. Consultant shall indemnify and hold Company harmless from all fines, penalties, expenses or other losses sustained by Company as a result of Consultant's breach of this provision. The Parties specifically acknowledge that Consultant's failure to comply with the requirements of this Article shall constitute a condition of default under this Contract.

ARTICLE 23. REVIEW OF DELIVERABLES

Review by Company of any Deliverables submitted by Consultant shall be solely for the benefit of Company and shall not relieve Consultant of its responsibility to comply with all requirements of the Contract and for the accuracy of the Deliverables.

ARTICLE 24. SAFETY AND SITE REGULATIONS

Consultant shall be solely responsible for being aware of and initiating, maintaining, and supervising compliance with all safety laws, regulations, precautions, and programs in connection with the performance of this Contract. Consultant shall, also make itself aware of and adhere to all applicable Company Work Site regulations including, without limitation, environmental protection, loss control, dust control, safety, and security. As a continuing condition to performing Work at any Work Site, Consultant may be required to maintain a subscription with Company's third-party safety and loss information reporting service (the "Administrator"). The Administrator manages safety ratings and insurance certificates of Company's contractors. Consultant will provide safety related information as requested by the Administrator including Consultant's safety programs, OSHA documents, experience modification rates (EMR) and an insurance and safety questionnaire. A variance or exclusion to the subscription and information requirements under this paragraph may be granted by the Company's Designated Representative.

ARTICLE 25. PROGRESS MEETINGS

Company will conduct weekly, or at other regular intervals as agreed by both Parties, meetings with Consultant to discuss the performance of the Work.

ARTICLE 26. COOPERATION WITH OTHERS

Consultant shall fully cooperate and coordinate with Company employees and other contractors who may be awarded other work. Consultant shall not commit or permit any act which will interfere with the performance of work by Company employees or other contractors.

ARTICLE 27. LIENS

Consultant shall: (i) indemnify, defend, and hold harmless Company from all laborers', materialmen's, and mechanics' liens, or claims made or filed upon the Work Site or other Company property on account of any Work or Service performed or furnished by Consultant's Subcontractors of any tier in connection with the Work (including any liens or claims based on the failure or alleged failure to maintain a payment bond); and (ii) keep Company property free and clear of all liens or claims arising from the performance of any Work covered by this Contract by Consultant or its Subcontractors of any tier.

If any lien arising out of this Contract is filed before or after Work is completed, Consultant, within ten (10) calendar days after receiving from Company written Notice of such lien, shall obtain release of or otherwise satisfy such lien. If Consultant fails to do so, Company may take such steps and make such expenditures as in its discretion it deems advisable to obtain release of or otherwise satisfy any such lien or liens, and Consultant shall upon demand reimburse Company for all costs incurred and expenditures made by Company in obtaining such release or satisfaction. If any non-payment claim is made directly against Company arising out of non-payment to any Subcontractor (including any liens or claims based on the failure or alleged failure to maintain a payment bond), Consultant shall assume the defense of such claim within ten (10) calendar days after receiving from Company written Notice of such claim. If Consultant fails to do so, Consultant shall upon demand reimburse Company for all costs incurred and expenditures made by Company to satisfy such claim.

Consultant's obligation to indemnify, defend, and hold harmless Company from liens shall not in any way be rendered unenforceable, or altered, amended, eliminated or otherwise conditioned by any laws and regulations related to processing such liens. Company shall have no obligation to deliver a copy of any notice of claim or right to a lien to Consultant or any other person or entity.

ARTICLE 28. CONFLICTS, ERRORS, OMISSIONS, OR DISCREPANCIES IN CONTRACT DOCUMENTS

Consultant shall advise Company in writing of all conflicts, errors, omissions, or discrepancies among the various documents comprising this Contract immediately upon discovery and prior to Consultant's performing the affected Work. Company shall resolve such conflicts and such resolution shall be final. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be considered as if shown or mentioned in both.

ARTICLE 29. CLAIM NOTICE AND RESOLUTION PROCEDURE

In the event Consultant has a claim or request for a time extension, additional compensation, any other adjustment of the Contract terms, or any dispute arising under the Contract (hereinafter "Claim"), Consultant shall provide Company with Notice of such Claim within five (5) business days following the occurrence of the event giving rise to the Claim. Consultant's failure to give Notice as required will constitute a waiver of all of Consultant's rights with respect to the Claim.

As soon as practicable after Claim notification, Consultant shall submit the Claim to Company with all supporting information and documentation. Consultant shall also respond promptly to all Company inquiries about the Claim and its basis.

Any Claim that is not disposed of by mutual agreement between the Parties shall be decided by Company, which shall provide a written decision to Consultant. Such decision shall be final unless Consultant, within thirty (30) days after such receipt of Company's decision, provides to Company a written protest, stating clearly and in detail the basis thereof. Consultant's failure to protest Company's decision within that time period shall constitute a waiver by Consultant of its right to dispute the decision. Even if a Claim arises, Consultant shall continue its performance of this Contract.

ARTICLE 30. SUSPENSION OF WORK

Company may, by written Notice, direct Consultant to suspend performance of any or all of the Work for a specified period of time. Upon receipt of such Notice to suspend, Consultant shall: (i) discontinue Work; (ii) place no further orders or subcontracts; (iii) suspend all orders and subcontracts; (iv) protect and maintain the Work; and (v) otherwise mitigate Company's costs and liabilities for those areas of Work suspended. Company shall pay Consultant an equitable amount for incremental costs incurred by Consultant as a result of the suspension and equitably extend any guaranteed completion dates to the extent such suspension adversely impacts Consultant's critical path to completion; provided, however, that if the suspension is due to Consultant's failure to comply with the Contract, no such payment shall be made or extension granted.

ARTICLE 31. TERMINATION FOR CONVENIENCE

Company may terminate this Contract in whole or in part at any time without cause prior to its completion by sending to Consultant written Notice of such termination. Upon such termination, Company shall pay to Consultant, in full satisfaction and discharge of all liabilities and obligations owed Consultant, an equitable amount for all Work satisfactorily performed by Consultant as of the date of termination, plus an equitable termination fee to address Subcontractor termination charges and other reasonable out-of-pocket costs demonstrably incurred by Consultant as the result of the termination provided that such costs cannot be reasonably mitigated. Company shall not be liable for anticipated profits, costs or overhead based upon Work not yet performed as of the date of termination.

ARTICLE 32. TERMINATION FOR CAUSE

1. For purposes of this Contract, a default by Consultant shall be the occurrence of any of the following:
 - a. A breach by Consultant of any of its material obligations under the Contract, if such breach continues uncured for a period of seven (7) days after receipt of Notice from Company, unless Company agrees, in writing, to grant Consultant an extension of such seven (7) day period for a period of time to be determined at Company's sole discretion. In such circumstance, Company shall prescribe the new cure period in writing. For purposes of the Contract, a default by Consultant shall be deemed to include, without limitation, Consultant's refusal or neglect to supply sufficient and properly skilled Personnel, materials or Deliverables of the proper quality or quantity, or equipment necessary to perform the Work or Services described in the Contract properly, or Consultant's failure in any respect to prosecute the Work or Services described in the Contract or any part thereof with promptness, diligence and in accordance with all of the material provisions hereof;

- b. Consultant fails in any material respect to comply with any laws, ordinances or regulations pertaining to safety or environmental compliance;
 - c. A determination that any representation, statement or warranty made by Consultant in this Contract or any other statement, report or document which Consultant is required to furnish to Company, was false or misleading in any material respect;
 - d. The occurrence of any of the following: (i) the filing by or against Consultant of a proceeding under any bankruptcy or similar law, unless such proceeding is dismissed within thirty (30) calendar days from the date of filing; (ii) the making by Consultant of any assignment for the benefit of creditors; (iii) the filing by or against Consultant for a proceeding for dissolution or liquidation, unless such proceeding is dismissed within thirty (30) calendar days from the date of filing; (iv) the appointment of or the application for the appointment of a receiver, trustee, or custodian for any material part of Consultant's assets unless such appointment is revoked or dismissed within thirty (30) calendar days from the date thereof; (v) the attempt by Consultant to make any adjustment, settlement, or extension of its debts with its creditors generally; (vi) the insolvency of Consultant or; (vii) the filing or recording of a notice of lien or the issuance or the obtaining of a levy of execution upon or against a material portion of Consultant's assets, unless such lien or levy of execution is dissolved within thirty (30) calendar days from the date thereof; or
 - e. A Material Adverse Change has occurred with respect to Consultant and Consultant fails to provide such performance assurances as are reasonably requested by Company, including without limitation the posting of Default Security pursuant to ARTICLE 9. SECURITY.
2. Upon the occurrence of any such default, following the applicable process described in this Article, Company shall be entitled upon written Notice to Consultant and without notice to Consultant's sureties and without limiting any of Company's other rights or remedies, to terminate this Contract or Consultant's right to proceed with that portion of the Work affected by any such default and collect the Net Replacement Costs incurred to complete the Work.
 3. Upon the occurrence of any such default, Company shall be entitled to make one or more draws against any Default Security as may be provided by Consultant hereunder.
 4. Upon the occurrence of any such default, Company shall be entitled to pursue any and all other rights and remedies that it may have against Consultant under this Contract or at law or in equity.
 5. In the event of a full or partial termination under this Article, Company may, for the purpose of completing the Work or enforcing these provisions, take possession of all completed and in-process Deliverables use them or may finish the Work by whatever method it may deem expedient including: (i) Company may hire a replacement contractor or contractors to complete the remaining Work that Consultant was otherwise obligated to complete under the Contract using such form of agreement as Company may deem advisable; or (ii) Company may itself provide any labor or materials to complete the Work.
 6. All rights and remedies provided in this Article are cumulative, and are not exclusive of any other rights or remedies that may be available, whether provided by law, equity, statute, in any other agreement between the Parties or otherwise. Upon the occurrence of any such default, following the applicable process described in this Article, Company shall be entitled to pursue any and all other rights and remedies, including without limitation damages, that Company may have against Consultant under this Contract or at law or in equity.

ARTICLE 33. DELAYS

Force Majeure. Neither Party shall be liable for delays caused by a Force Majeure Event; provided, however, that both Parties agree to seek to mitigate the potential impact of any such delay. Any delay attributable to a Force Majeure Event shall not be the basis for a request for additional compensation. In the event of any such delay, the required completion date(s) may be extended for a reasonable period not exceeding the time actually lost by reason of the Force Majeure Event.

Company-Caused Delay. If Consultant is actually delayed in its performance of the Work by the actions or omissions of Company (excluding the Company's good faith exercise of rights and remedies provided under the Contract), or by changes ordered with respect to the Work, and if Consultant is able to prove that it has used all reasonable means to avoid or minimize the effects of the delay, then, as Consultant's sole remedy, Consultant's guaranteed completion dates shall be equitably adjusted to reflect the impacts of such Company-caused delays. No adjustment under this Article shall be made for any delay to the extent that it is caused or contributed to by Consultant or performance would have otherwise been delayed by any other cause, including the fault or negligence of Consultant. Company may determine whether Consultant has met its burden described in this Article

either before or after the completion deadline. If before the completion deadline, Company determines Consultant has met its burden as described in this Article, then Company may issue a written change order to extend the schedule. If after the completion deadline, Company determines Consultant has met its burden described in this Article, then Company may extend the completion deadline and thereby relieve Consultant of the obligation to pay liquidated damages.

Consultant-Caused Delays. Any Work that is not delivered in accordance with the Scope of Work may constitute a default to the extent set forth in the terms and conditions of this Contract, provided that the delay is not related to either a Force Majeure Event or Company-caused delay.

Request For Time Extension. Any request for time extension shall be made in accordance with ARTICLE 29. CLAIM NOTICE AND RESOLUTION PROCEDURE.

ARTICLE 34. COMPLIANCE WITH LAWS

Consultant shall at all times comply with all laws, statutes, regulations, rules, executive orders, ordinances, codes, and standards applicable to Consultant's performance of the Work including, without limitation, those governing health and safety, wages, hours, employment of minors, desegregation and employment discrimination, as each may be applicable to the Work performed hereunder, and based on total anticipated dollar value of this Contract. Consultant further confirms that its employees and the employees of all Subcontractors employed under the Contract may legally work in the United States.

Without limiting the generality of the foregoing, Consultant and any Subcontractors shall abide by the requirements of 41 CFR §§60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin or discussion of compensation. Moreover, these regulations require that covered prime contractors and Subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. Consultant and any Subcontractors shall also abide by the requirements of Executive Order 11246, as amended, to develop and maintain a written affirmative action program (AAP) and Executive Orders 11625 and 13170 (utilization of disadvantaged business enterprises) and the Small Business Act. To the extent applicable, the employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this Contract.

Consultant shall indemnify, defend and hold harmless Company, its directors, officers, employees and agents from all losses, costs and damages by reason of any violation thereof and from any liability, including without limitation fines, penalties and other costs arising out of Consultant's failure to so comply.

ARTICLE 35. INDEPENDENT CONTRACTOR

Consultant is an independent contractor and all persons employed by Consultant in connection herewith shall be employees of Consultant and not employees of Company in any respect. Consultant shall maintain complete control over Consultant's employees and Subcontractors.

ARTICLE 36. RELEASE OF INFORMATION; ADVERTISING AND PROMOTION

Consultant shall not publish, release, disclose, or announce to any member of the public, press, official body, or any other third party any information concerning this Contract and/or the Work, or any part thereof, without the express prior written consent of Company, except as required by law. Neither the names of Company, nor the Work Site shall be used in any advertising or other promotional context by Consultant without the express prior written consent of Company.

ARTICLE 37. CONFIDENTIAL INFORMATION; NONDISCLOSURE

Definition of Confidential Information. The term "Confidential Information" means: (i) proprietary information of Company; (ii) information marked or designated by Company as confidential; (iii) BES Cyber System Information of Company; (iv) information, whether or not in written form and whether or not designated as confidential, which is known to Consultant as being treated by Company as confidential; (v) information provided to Company by third parties which Company is obligated to keep confidential (including but not limited to information relating to an identified or identifiable natural person, whether or not such information is publicly available); and (vi) information developed by Consultant in connection with the performance of this Contract.

BES Cyber System Information. Confidential Information of Company labeled as BCSI shall be protected consistent with the following requirements: (a) BCSI shall be protected at all times, either by appropriate storage or having it under the personal

observation and control of a person authorized to receive it; (b) each person who works with protected BCSI is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it; (c) reasonable steps shall be taken to minimize the risks of access to BCSI by unauthorized personnel (when not in use, BCSI shall be secured in a secure container, such as a locked desk, file cabinet or facility where security is provided); (d) documents or material containing BCSI may be reproduced to the minimum extent necessary, consistent with the need to carry out the Work, provided that the reproduced material is marked and protected in the same manner as the original material; (e) material containing BCSI should be disposed of through secured shredding receptacles or other secured document destruction methods; (f) BCSI shall be transmitted only by the following means: (i) hand delivery; (ii) United States first class, express, certified or registered mail, bonded courier, or through secure electronic means; (iii) e-mail with encrypted file (such as, WinZip with password) (the password should not be included in e-mail, but should be delivered by phone or in an unrelated e-mail not mentioning the document name; password-protected Microsoft Office documents do not meet the encryption requirements); and (g) documents or material containing BCSI shall be returned to Company or certified destroyed upon completion of the Work.

Nondisclosure. Consultant agrees that it will not disclose Confidential Information, directly or indirectly, under any circumstances or by any means, to any third person without the express written consent of Company.

Nonuse. Consultant further agrees that it will not use Confidential Information except as may be necessary to perform the Work called for by this Contract.

Protection. Confidential Information will be made available by Consultant to its employees only on a “need to know” basis and only after notifying such employees of the confidential nature of the information and after having obligated them to the nonuse and nondisclosure obligations of this Contract. Consultant agrees to take all reasonable precautions to protect the confidentiality of Confidential Information and, upon request by Company, to return to Company any documents which contain or reflect such Confidential Information.

Federal Defend Trade Secrets Act. The Federal Defend Trade Secrets Act of 2016 provides immunity from civil or criminal liability for any employee or contractor who discloses a trade secret “in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney” where the disclosure by the employee or contractor is “solely for the purpose of reporting or investigating a suspected violation of law” or “is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.” 18 U.S.C. § 1833(b). Nothing in this Contract is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

Unless waived by Company, Consultant shall require its employees and Subcontractors of any tier to adhere to these confidential information and nondisclosure terms.

ARTICLE 38. OWNERSHIP OF DESIGNS, DRAWINGS AND WORK PRODUCT

The Deliverables prepared or developed hereunder, or other documents or information provided to Company, by Consultant or its employees or agents, or Subcontractors or their employees or agents, including without limitation drawings, specifications, manuals, calculations, maps, sketches, designs, tracings, notes, reports, data, computer programs, models and samples, shall become the physical property of Company when prepared and, to the extent subject to protection under copyright laws, shall constitute “work made for hire” and shall become the intellectual property of Company, without regard to any markings that may denote a confidential or proprietary interest of Consultant in the said items. To the extent the Deliverables incorporate pre-existing intellectual property of Consultant or of any third party (“Pre-Existing Property”), Consultant hereby grants Company a perpetual, fully paid, transferable right to use, copy and modify such Pre-Existing Property for the purpose of Company’s operation, administration, maintenance, modification, improvement and replacement of the Company’s assets the fullest extent necessary to accomplish those purposes. Such license includes the right of Company to share Pre-Existing Property to Company’s contractors, agent, officers, directors, employees, joint owners, affiliates and consultants for the foregoing purposes, without regard to any markings that may denote a confidential or proprietary interest in the said items. Consultant hereby represents, warrants and covenants that it holds all requisite rights and third party consents necessary to grant the foregoing license without infringing the rights of any third party. Consultant shall deliver all Deliverables, together with any documents or information furnished to Consultant and its employees or agents by Company hereunder, upon Company’s request and, in any event, upon termination or final acceptance of the Work.

ARTICLE 39. PATENT AND COPYRIGHT INDEMNITY

Consultant shall indemnify, defend, and hold harmless Company, its directors, officers, employees, and agents against and from all claims, losses, costs, suits, judgments, damages, and expenses, including attorneys’ fees, of any kind or nature whatsoever on account of infringement of any patent, copyrighted or uncopyrighted work, including claims thereof pertaining to or arising from Consultant’s performance under this Contract. If notified promptly in writing and given authority, information, and assistance,

and contingent upon Company not taking any position adverse to Consultant in connection with such claim, Consultant shall defend, or may settle at its expense, any suit or proceeding against Company so far as based on a claimed infringement which would result in a breach of this warranty, and Consultant shall pay all damages and costs awarded therein against Company due to such breach.

In case any Service or Deliverable is in such suit held to constitute such an infringement and the use of said Service or Deliverable is enjoined, Consultant shall, at its expense and through mutual agreement between Company and Consultant, either procure for Company the right to continue using said Service or Deliverable, or replace same with a non-infringing Service or Deliverable, or modify same so it becomes non-infringing.

ARTICLE 40. CYBER SECURITY

I. OBJECTIVE AND SCOPE OF THIS ARTICLE

Managing supply chain cyber security risk requires Company's contractors and suppliers to meet minimum obligations to maintain the integrity of Company's systems, facilities, and Confidential Information. This Cybersecurity Article ("Article") applies to any contractor or supplier (collectively, "Contractor" for purposes of this Article) (and its Personnel and Subcontractors) that may store, process, or have access to Company's information systems, networks, services, or applications, and may impact the integrity, availability, or confidentiality of Company's Confidential Information or systems for the term of the Contract.

II. DEFINED TERMS

"Confidential Information" shall have the meaning as defined in the Contract and in addition include any information that identifies an individual or customer of Company, including but not limited to customer account numbers, customer addresses, customer energy usage information, credit or bank account numbers, social security numbers, passport or driver's license numbers, or any information not otherwise classified as public information by Company.

"Data" shall mean any information, formulae, algorithms, or other content that the Company or the Company's employees, agents and end users upload, create or modify using any software provided pursuant to the Contract. Data also includes user identification information and metadata which may contain Data or from which the Company's Data may be ascertainable.

"Security Breach" shall mean any act or omission that compromises either the security, confidentiality, or integrity of Company's Confidential Information, Data, systems and facilities or Company's physical, technical, administrative or organizational safeguards and controls relating to the protection of Company's Confidential Information, Data, systems, and facilities.

Any capitalized terms not otherwise defined herein shall have the meaning in the Contract.

III. COMPLIANCE WITH INDUSTRY BEST PRACTICES AND STANDARDS

Without limiting Contractor's obligations elsewhere in this Article or the Contract, Contractor shall implement baseline security safeguards and controls to protect Company's Confidential Information, Data, and systems that are no less rigorous than accepted industry practices, specifically those set forth in the latest published version of (i) National Institute of Standards and Technology Special Publication 800-53, Recommended Security Controls for Federal Information Systems or (ii) ISO 27001-Information Security Management.

IV. INFORMATION AND SYSTEMS SECURITY PROGRAM

(a) Confidential Information. Contractor represents and warrants that its collection, access, use, storage, disposal, and disclosure of Company's Confidential Information and Data does and will comply with all applicable federal and state privacy and data protection laws, regulations, and directives. Contractor's safeguards shall include limiting access to Company systems and Confidential Information to Contractor's Personnel who have a "need to know" or otherwise access Company's systems and Confidential Information to enable Contractor to perform Work or Services under the Contract. Articles of the Contract, concerning (i) Contractor's Personnel and their access to Company's facilities and (ii) the handling of Confidential Information, respectively, shall apply to this Article as applicable. These provisions included herein apply to all Subcontractors to the extent and during such periods as they are in possession of Confidential Information or Data.

(b) Data and Information Security Program. Contractor shall develop a data and information security program that documents the policies, standards, and controls in use, including organizational, administrative, technical, and physical safeguards and standards. The data and information security program must be reasonably designed to achieve the objectives to:

- (i) ensure the confidentiality, availability, and integrity of Company's Confidential Information;

- (ii) protect against any anticipated threats or hazards to the confidentiality, availability, or integrity of such information; and
- (iii) protect against unauthorized access to or use of such information or information systems.

Contractor shall ensure that it produces and communicates a comprehensive, documented data and information security program to all Personnel with access to Company's Confidential Information, Data, and systems.

(c) Information Systems Acquisition, Development and Maintenance. Contractor shall utilize a comprehensive application security program to help ensure that applications are consistent with industry security requirements. This shall include full application compliance testing and software development reviews.

(d) Vulnerability Testing and Remediation. Contractor shall ensure systems are regularly scanned for compliance with industry security standards, and that any applicable detected vulnerabilities are remediated. Contractor shall ensure that application security vulnerabilities are assessed for business risk and impact, and have a vulnerability remediation plan.

(e) Secure System Configuration. Contractor shall establish, implement, and actively manage (track, report on, and correct) the security configuration of laptops, servers, and workstations using a rigorous configuration management and change control process in order to prevent attackers from exploiting vulnerable services and settings.

(f) System Patching. Contractor shall implement an effective software update management process to ensure the most relevant, up-to-date, approved patches are installed for all authorized software. This process shall also include weighing the benefit associated with installing a patch to resolve a vulnerability against other factors, including the potential impact to system stability.

(g) Security Review of Internal and External Applications. Contractor shall perform security reviews of applications developed internally, as well as third party applications that process, store or transmit data.

(h) Application Security Awareness Program Content. Contractor shall ensure that the content of its application security awareness program incorporates current and relevant security attacks and vulnerabilities mitigation.

(i) Disaster Recovery and Business Continuity. Contractor shall develop a comprehensive IT disaster recovery and business continuity program and plan that is accessible by Company, supported by contingency arrangements, and tested periodically.

(j) Remote Access. Contractor shall follow all applicable Company requirements for all remote access to Company resources and systems. To the extent Contractor's Personnel will have interactive remote access to Company's networks, systems or applications, such access must be performed on a secure connection. Contractor shall utilize multi-factor authentication (e.g., two-factor or token) to provide an additional level of security for Contractor's Personnel with such access. Contractor shall maintain an accurate record of Personnel or Subcontractors who will have remote access to Company resources and systems, and the country of origin of individual remote access, and Contractor shall name its personnel and Subcontractors given remote access to Company's systems. Company reserves the right to deny individual remote access connection at Company's sole discretion.

V. SECURITY OF CONFIDENTIAL INFORMATION AND DATA

(a) Any Confidential Information and Data provided by Company to Contractor (electronically or otherwise) and used by the Contractor directly or indirectly in the performance of this Contract shall remain at all times the confidential property of Company. Contractor shall not use Confidential Information or Data, and shall not permit any Subcontractor to use Confidential Information or Data, for any purpose other than the purpose of performing the Work or Services set forth in this Contract.

(b) During the term of the Contract, Contractor shall provide Company with Notice if Confidential Information or Data will be physically located outside the United States at least forty-eight (48) hours in advance.

(c) Contractor shall be responsible for preserving the integrity (i.e., completeness and accuracy) of, and preventing any unauthorized access, corruption, loss, damage and/or destruction to, Confidential Information or Data.

VI. OVERSIGHT OF COMPLIANCE

Company reserves the right to conduct an assessment, audit, examination, or review of Contractor's security controls to confirm Contractor's adherence to the terms of this Article, as well as any applicable laws, regulations, and industry standards, not more than once per year or upon notification of any Security Breach or complaint regarding Contractor's privacy and security practices. Company may elect to obtain the services of a third party to conduct this assessment, audit, examination, or review on behalf of Company. Company shall give Contractor no less than thirty (30) calendar days' notice of its intent to conduct such assessment,

audit, examination, or review. As part of this assessment, audit, examination, or review, Company may review all controls in Contractor's physical and/or technical environment in relation to all Confidential Information being handled and/or services being provided pursuant to this Article. Contractor shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, and application software that processes, stores, or accesses Company's Confidential Information or systems pursuant to the Contract. Vendor grants the Company the right to perform network-based vulnerability scans of any Internet-reachable websites or devices used for the provision of services or support under the Contract.

VII. SECURITY BREACH PROCEDURES; EQUITABLE RELIEF

(a) Contractor shall:

- (i) provide Company with the name and contact information for any Personnel who shall serve as Contractor's primary security contact and shall be available to assist Company twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a real or emerging Security Breach;
- (ii) notify Company of a real or emerging Security Breach as soon as practicable, but no later than 24 hours after Contractor becomes aware of it; and
- (iii) notify Company of any real or emerging Security Breach by telephone at the following number: (503) 813-5555.

(b) Immediately following Contractor's notification to Company of a real or emerging Security Breach, the Parties shall coordinate with each other to investigate such Security Breach. Contractor agrees to fully and promptly coordinate with Company in Company's handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing Company with physical access to the facilities and operations affected; (iii) facilitating interviews with Contractor's Personnel and other employees or agents involved in the matter; and (iv) making available all relevant records and other materials required to comply with applicable law, regulation, industry standards, or otherwise reasonably required by Company.

(c) Contractor shall use best efforts to immediately remedy any real or emerging Security Breach and prevent any further Security Breach at Contractor's expense in accordance with applicable privacy laws, regulations, and standards. Contractor shall reimburse Company for actual reasonable costs incurred by Company in responding to, and mitigating damages caused by, any real or emerging Security Breach, including all costs of notice and/or remediation pursuant to this section. In the event of a Security Breach, Contractor shall promptly use its best efforts to prevent a recurrence of any such Security Breach.

(d) Contractor agrees that it shall not inform any third party of any Security Breach without first obtaining Company's prior written consent other than to inform a complainant that the matter has been forwarded to Company's legal counsel. Further, Company shall have the sole and exclusive right to determine: (i) whether notice of the Security Breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies, or others as required by law or regulation, or otherwise in Company's discretion; and (ii) the contents of such notice.

(e) Contractor shall fully cooperate at its own expense with Company in any litigation or other formal action deemed reasonably necessary by Company to protect its rights relating to the use, disclosure, protection, and maintenance of its Confidential Information and Data.

(f) Contractor shall follow the same notice procedures above as applicable if it becomes aware of any significant emerging cybersecurity issues involving any Subcontractors that may result in a Security Breach involving the Company.

(g) Contractor acknowledges that any breach of Contractor's obligations set forth in this Article may cause Company substantial irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such a breach or threatened breach, Company is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which Company may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other available remedies at law or in equity, subject to any express exclusions or limitations in the Contract to the contrary.

VIII. MATERIAL BREACH OF CONTRACT

Contractor's failure to comply with any of the provisions in this Article is a material breach of the Contract; in such an instance Company may terminate the Contract for cause in a manner consistent with this Contract. In such an event, Company may terminate the Contract effective immediately upon written Notice to the Contractor without further liability or obligation to Contractor notwithstanding any provision to the contrary in the Contract.

IX. NETWORK SECURITY & PRIVACY LIABILITY

If the Work or Services under the Contract involves the rendering of IT services including, but not limited to: software, software or hardware or systems development or consulting services; internet/application services (e.g., web hosting); providing content; connections to systems, technology or network(s); or if Contractor in any way collects, obtains, maintains or in any way accesses or uses Confidential Information or Data, then Contractor, and its Subcontractors, shall maintain Network Security & Privacy Liability coverage, which can be included via evidenced endorsement to Professional Errors & Omissions coverage, throughout the term of this Contract and for a period of two (2) years thereafter, with a minimum required limit of \$5,000,000 Each Claim.

X. CYBER INDEMNIFICATION

To the fullest extent permitted by the law, Contractor shall defend, indemnify, and hold harmless Company and Company's affiliates, respective officers, directors, employees, agents, and successors (each an "Indemnitee") from and against all losses, damages, liabilities, actions, judgments, interest, awards, penalties, fines, costs or expenses, including reasonable attorneys' fees, arising out of or resulting from any third-party claim against any Indemnitee arising out of or resulting from Contractor's action or omission that represents a failure to comply with any of its obligations under this Article.

ARTICLE 41. ASSIGNMENT

Company may at any time assign its rights and delegate its obligations under this Contract, in whole or in part, including, without limitation, transferring its rights and obligations under this Contract to any: (i) affiliate; (ii) successor in interest with respect to the Work Site; or (iii) corporation or any other business entity in conjunction with a merger, consolidation, or other business reorganization to which Company is a party. Consultant shall not assign any of its rights or responsibilities, nor delegate its obligations, under this Contract or any part hereof without the prior written consent of Company, and any attempted transfer in violation of this restriction shall be void.

ARTICLE 42. SUBCONTRACTS

Consultant shall not subcontract any or all of the Work without prior written consent of Company which shall not be unreasonably withheld. Consultant shall be fully responsible for the acts or omissions of any Subcontractors of any tier and of all persons employed by them, shall maintain complete control over all such Subcontractors, and neither the consent by Company, nor anything contained herein, shall be deemed to create any contractual relation between the Subcontractors of any tier and Company.

Company is committed to and understands the importance of promoting diversity among its consultants and their Subcontractors by increasing the amount of business conducted with qualified diverse business enterprises, including women-owned, minority-owned, disabled veteran-owned, and lesbian, gay, bisexual, and transgender ("LGBT")-owned businesses. Company expects the same level of commitment from Consultant when it subcontracts any of the Work to Subcontractors of any tier. In the event of any spend activity with qualified diverse Subcontractors in a given monthly period, Consultant shall submit, by the 10th day of the following month, the Diversity Subcontractor Spend Report included as Exhibit H. Consultant shall submit the Diversity Subcontractor Spend Report to supplierdiversity@pacificorp.com.

In the event that a state agency or regulatory commission audits any Company report or filing concerning diverse consultant spend activity that had been prepared utilizing information provided at least in part by Consultant, Consultant shall provide Company with all substantiating documentation to sufficiently support Company's report or filing within five (5) business days of any request. Examples of documentation that Company may request include, but are not limited to, contracts or purchase orders between Consultant and any of its Subcontractors identifying Company as the ultimate recipient, invoices between Consultant and any of its Subcontractors identifying Company as the ultimate recipient, and proof of payment by Consultant to any of its Subcontractors.

ARTICLE 43. NON-EXCLUSIVE RIGHTS

Nothing in this Contract is to be construed as granting to Consultant an exclusive right to provide any or all of the Work anticipated herein. The use of Consultant's services is completely discretionary with Company. This Contract shall not be construed in any way to impose a duty upon Company to use Consultant.

ARTICLE 44. NONWAIVER

The failure of Company to insist upon or enforce strict performance by Consultant of any of the terms of this Contract or to exercise any rights herein shall not be construed as a waiver or relinquishment to any extent of Company's right to enforce such terms or rights on any future occasion.

ARTICLE 45. SEVERABILITY

Any provision of this Contract prohibited or rendered unenforceable by operation of law shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Contract.

ARTICLE 46. APPLICABLE LAW AND VENUE

This Contract shall be interpreted in accordance with the substantive and procedural laws of the State of Oregon. Any litigation between the Parties arising out of or relating to this Contract will be conducted exclusively in federal or state courts in the State of Oregon and Consultant consents to jurisdiction by such courts. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THIS PARAGRAPH WILL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT.

ARTICLE 47. ENTIRE AGREEMENT; DOCUMENTS INCORPORATED BY REFERENCE

This Contract and any referenced exhibits and attachments, constitute the complete agreement between the Parties. All understandings, representations, warranties, agreements and any referenced attachments, if any, existing between the Parties regarding the subject matter hereof are merged into and superseded by this Contract, which fully and completely expresses the agreement of the Parties with respect to the subject matter hereof. Any Scope of Work, drawings, schedules or other documents listed in this Contract are incorporated by reference into this Contract. In the event of a conflict between (i) any Scope of Work, drawings, schedules or other attachment or exhibit to this Contract and (ii) the above terms and conditions of this Contract, the above terms and conditions of this Contract shall take precedence and control.

Company assumes no responsibility for any understanding or representation made by any of its employees, officers or agents during or prior to the negotiations and execution of this Contract, unless such understanding or representation is expressly stated in the Contract.

ARTICLE 48. EXECUTION AND EFFECTIVE DATE

This Contract has been executed by duly authorized representatives of the Parties and shall be effective as of date of execution by Company.

CONSULTANT:

**COMPANY:
PACIFICORP**

By:

(Signature)

Name:

(Type or Print)

Title:

(Date Executed)

By:

(Signature)

Name:

(Type or Print)

Title:

(Date Executed)

