

CONTRACT LETTER

This Contract Number 027539190000X103 (“Contract”) is made effective the 1st day of December, 2014 (the “Effective Date”) by and between **American Electric Power Service Corporation**, a New York corporation, **for itself and as agent for the operating companies of the American Electric Power System** (“Owner” or “AEP”), having its principal place of business at 1 Riverside Plaza, Columbus, Ohio 43215, and **CLEAResult Consulting, Inc.**, a Texas corporation (hereinafter called “Contractor”), having its principal place of business at 4301 Westbank Drive, Building A, Suite 250, Austin, Texas 78746. (Owner and Contractor may be collectively referred to herein as “Parties” or individually as a “Party”).

1. Description of Work

Subject to the terms and conditions hereof, Contractor shall provide all labor, supervision and materials necessary to act as implementation contractor for various energy efficiency and demand response programs for Owner’s operating companies as set out in each Work Authorization.

This Contract Letter does not authorize any Work. Owner will authorize Work via an “Authorization To Perform Work” form issued pursuant to the Contract (“Work Authorization”). Only the Owner’s company ordering the Work under a Work Authorization shall be responsible for the obligations created thereunder.

Each Work Authorization will contain the scope of work for that specific project, a schedule for performance, specific deliverables, a budget, performance criteria, and any special instructions. Each Work Authorization shall reference this Contract’s terms and conditions as governing the Work performed thereunder.

The Parties agree that any terms and conditions inconsistent with, additional to, or different than this Contract, that may be preprinted or attached to a quote, purchase order, acknowledgement or any other document that the Parties may use for the ordering and performance of Work hereunder shall not apply and each Party hereby rejects all such terms and conditions.

2. Contract Documents, Incorporation and Priority

Contractor and Owner agree that the Work will be performed in accordance with the following documents, which are attached hereto, incorporated herein unless stated otherwise, and listed in their order of priority in the event of a conflict:

- a. this Contract Letter;
- b. the AEP General Terms and Conditions for Labor and Services, Rev. 2. dated 7/12, as modified by the Agreed Exceptions to General Terms and Conditions for Labor and Services, collectively designated as **Exhibit A**;
- c. the Security Supplement, designated as **Exhibit B**; and

3. Term

The term of this Contract shall commence on the Effective Date and shall remain in full force and effect until December 31, 2019 unless earlier terminated in accordance with this Contract.

4. Pricing and Payment Terms

In consideration of satisfactory performance of the Work, Owner agrees to pay Contractor in accordance with the applicable Work Authorization.

5. Invoicing and Invoices

Contractor shall invoice Owner as set out in the applicable Work Authorization.

Each invoice shall include the following minimum information:

- a. A unique invoice number;
- b. The applicable Work Authorization number;
- c. Details and itemization of activities and expenditures being invoiced;
- d. If no direct pay permit or exemption certificate, the rate and amount of taxes being billed; and
- e. Total amount of the invoice.

Contractor shall e-mail all invoices to the invoice contact in the applicable Work Authorization.

6. Notices and Operation Contacts

In accordance with Article 33 of the AEP General Terms and Conditions for Labor and Services Rev. 3. dated 6/14 in **Exhibit A**, the representatives of the Parties for receipt of notices are:

For Owner:

Name	Role	Email	Phone	Address
Jennifer Downey	Contract Analyst	jldowney@aep.com	614.552.2136	700 Morrison Road, 4 th Fl., Gahanna, Ohio 43230
As stated in the Work Authorization	As stated in the Work Authorization	As stated in the Work Authorization	As stated in the Work Authorization	As stated in the Work Authorization

For Contractor:

As stated in Work Authorization	As stated in Work Authorization	As stated in Work Authorization	As stated in Work Authorization	As stated in Work Authorization
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7. Escheatment of abandoned and Unclaimed Property

Pursuant to the terms of the Contract, Owner makes certain payments to Contractor. Contractor acknowledges that, for purposes of abandoned and unclaimed property reporting and escheatment, it is the holder of all amounts paid by Owner. As the holder of such property, Contractor represents and warrants that it will comply will all federal, state, and local laws and regulations relating to abandoned and unclaimed property. Contractor will indemnify Owner for any assessments, penalties, charges, fines, or other costs relating to any amounts paid by Owner to Contractor as a result of any audit of abandoned or unclaimed property and/or any failure to comply with any federal, state, and local laws and regulations relating to abandoned and unclaimed property. Contractor further represents and warrants that its processes related to the handling, record retention, and reporting of abandoned and unclaimed property are sufficient to comply with all federal, state, and local laws and regulations relating to abandoned and unclaimed property. Contractor shall certify to Owner on an annual basis that it is in compliance with all federal, state, and local laws and regulations relating to abandoned and unclaimed property. Upon request, Contractor shall provide Owner with any such documentation demonstrating compliance as Owner may reasonably request.

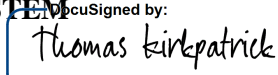
8. Miscellaneous

All capitalized terms not defined herein are as defined in the applicable terms and conditions referenced herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed by their respective representatives thereunto duly authorized on the dates set forth below to be effective as of the Effective Date.

AMERICAN ELECTRIC POWER SERVICE CORPORATION, FOR ITSELF AND AS AGENT FOR THE OPERATING COMPANIES OF THE AMERICAN ELECTRIC POWER

CLEARRESULT CONSULTING, INC.

DocuSigned by:

By: _____
Name: Thomas Kirkpatrick
Title: Vice President Customer Service, Marketing and Distribution Services
Date: 12/8/2014 | 3:29 PM ET


DocuSigned by:

By: _____
Name: Joe Mattoon
Title: _____
Date: 12/12/2014 | 2:47 PM ET

EXHIBIT A

**AGREED EXCEPTIONS
BETWEEN**

**AMERICAN ELECTRIC POWER SERVICE CORPORATION FOR ITSELF AND AS AGENT
FOR THE OPERATING COMPANIES OF THE AMERICAN ELECTRIC POWER SYSTEM**

AND

CONTRACTOR

**TO THE AEP GENERAL TERMS AND CONDITIONS FOR LABOR AND SERVICES
REV. 3 dated 6/14**

(REFERRED TO AS THE “AGREED EXCEPTIONS”)

The following terms, conditions or provisions of the General Terms and Conditions for Labor and Services dated March 2009, Rev.3 dated 6/14, set forth in **Exhibit A** to the Contract are hereby amended, modified and revised as follows:

1. Section 11.1.3 shall be amended by deleting “90%” and replacing it with “100%”.
2. Section 16.3 of Article 16.0 INSURANCE shall be amended by deleting the following sentence: “Such coverage shall also include blanket contractual coverage and contain no exclusion for explosion, collapse, or underground property damage (XCU coverage).”
3. Section 16.5 of Article 16.0 INSURANCE shall be amended by replacing “five (5)” with “three (3)” in the last sentence.
4. Section 16.9 of Article 16.0 INSURANCE shall be amended by deleting “if such insurance policies are subject to any exceptions to the terms specified herein, such exceptions shall be explained in such certificates.”
5. Section 17.2 of Article 17.0 INDEMNIFICATION shall be deleted in its entirety and replaced with the following:

“TO THE EXTENT PERMITTED BY LAW, CONSULTANT SHALL INDEMNIFY, DEFEND AT ITS EXPENSE, AND SAVE OWNER HARMLESS FROM, ANY LIABILITIES, COSTS AND CLAIMS, INCLUDING JUDGMENTS RENDERED AGAINST, AND FINES AND PENALTIES IMPOSED UPON, OWNER AND REASONABLE ATTORNEYS' FEES AND ALL OTHER COSTS OF LITIGATION (COLLECTIVELY, “LIABILITIES”), ARISING OUT OF THE CONTRACT, INCLUDING INJURIES, DISEASE OR DEATH TO PERSONS, OR DAMAGE TO PROPERTY, AND ENVIRONMENTAL CLAIMS AND LIABILITIES, TO THE EXTENT CAUSED BY THE NEGLIGENCE OF CONSULTANT, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS OR BASED ON A BREACH OF THIS CONTRACT BY CONSULTANT, EXCEPT THAT CONSULTANT'S OBLIGATION TO INDEMNIFY OWNER SHALL NOT APPLY TO ANY LIABILITIES TO THE

EXTENT ARISING FROM OWNER'S NEGLIGENCE. OWNER SHALL HAVE THE RIGHT TO SELECT ITS OWN COUNSEL AND TO HAVE COUNSEL SEPARATE FROM CONSULTANT, ALL AT CONSULTANT'S EXPENSE."

6. Section 20.2, sentence 1, of Article 20.0 INTELLECTUAL PROPERTY shall be deleted in its entirety and replaced with the following:

"All inventions, discoveries, documents, works of authorship, methods, and the derivative works thereof, resulting solely from the Work, including patents, patent applications, copyrights, trade secrets and other intellectual property (collectively "Intellectual Property"), shall be the sole and exclusive property of Owner; provided, however, that Consultant reserves the right (i) to use and provide to other third parties for Consultant's own account all "know how" of Consultant included in or constituting a part of the foregoing, and (ii) to provide services and products to other third parties of the same or a similar nature to those provided by Consultant to Owner under this Contract."

7. Section 20.3 of Article 20.0 INTELLECTUAL PROPERTY shall be deleted in its entirety and replaced with the following:

"Consultant grants Owner a nonexclusive, nonrevocable, perpetual, fully paid license to utilize Consultant's intellectual property existing separate from the Contract, including inventions, discoveries, works of authorship, methods, and trade secrets, regardless of whether such are the subject of patents, copyrights or other intellectual property protection, to the extent necessary for Owner to achieve the full benefit of the Work; provided, however, that the foregoing rights granted by the Consultant to Owner shall be limited to Owner's own internal use of the same and the foregoing right to a license is limited to the granting by Owner of sublicenses to Owner affiliated companies. For energy efficiency programs implemented by Consultant for Owner, in addition to the terms of Section 20.3, Consultant grants Owner the continued use after this Contract, even if not implemented by Consultant, of Consultant pre-designed program materials, including program manuals, processes, forms, collateral materials, reports, brand names, and other items necessary to continue the general functioning of the program to the public, but not including pre-developed process formulas and algorithms that represent Consultant's intellectual property."

8. The following new section 20.5 shall be inserted into Article 20.0 INTELLECTUAL PROPERTY as follows:

"20.5. All inventions, works of authorship, discoveries, documents, methods, other proprietary data whether electronic or other, software, and the derivative works thereof (as well as copyrights, service marks, patents, trade secrets, and similar rights attendant thereto) conceived, reduced to practice, authored, developed or purchased independently outside the scope of this Contract and without use or reference to information provided by Owner shall be owned by Consultant."

AMERICAN ELECTRIC POWER

AEP GENERAL TERMS AND CONDITIONS FOR LABOR AND SERVICES

March 2009 Rev. 3 dated 6/14

TABLE OF CONTENTS

<u>ARTICLE NO.</u>	<u>HEADING</u>	<u>PAGE NO.</u>
1.0	DEFINITIONS.....	1
2.0	CONTRACTOR'S OBLIGATIONS.....	2
3.0	TERM AND EFFECTIVE DATE.....	3
4.0	RELATIONSHIP OF THE PARTIES.....	3
5.0	ASSIGNMENT AND SUBCONTRACTING.....	3
6.0	LABOR RELATIONS.....	4
7.0	SAFETY AND SECURITY.....	4
8.0	MATERIALS.....	7
9.0	INSPECTION AND ACCEPTANCE.....	8
10.0	SCHEDULE.....	8
11.0	TERMS OF PAYMENT.....	9
12.0	CHANGES IN WORK AND EXTRA WORK.....	9
13.0	REIMBURSEMENT FOR COST-PLUS WORK.....	11
14.0	BACKCHARGES.....	11
15.0	TAXES.....	11
16.0	INSURANCE.....	12
17.0	INDEMNIFICATION.....	14
18.0	LIMITATION OF LIABILITY.....	15
19.0	LIENS.....	15
20.0	INTELLECTUAL PROPERTY.....	15
21.0	DRAWINGS AND DATA.....	16
22.0	CONFIDENTIALITY.....	16
23.0	DEFAULT.....	17
24.0	DAMAGES FOR DELAY.....	18
25.0	FORCE MAJEURE.....	18
26.0	SUSPENSION.....	18
27.0	TERMINATION.....	19
28.0	MATERIALS AND WORKMANSHIP WARRANTY.....	20
29.0	REPORTING OF COMPLAINTS.....	20
30.0	RETENTION AND EXAMINATION OF INFORMATION, BOOKS AND RECORDS.....	21
31.0	COMPLIANCE WITH LAWS.....	21
32.0	PERMITS AND LICENSES.....	22
33.0	NOTICES.....	22
34.0	SEVERABILITY.....	22
35.0	WAIVER.....	22
36.0	NON-DISCLOSURE.....	22
37.0	HEADINGS.....	22
38.0	AFFILIATED COMPANIES.....	23
39.0	APPLICABLE LAWS AND JURISDICTION.....	23
40.0	ENTIRE AGREEMENT.....	23
41.0	BINDING EFFECT; NO THIRD-PARTY BENEFICIARIES.....	23
42.0	EXECUTION; COUNTERPARTS; ELECTRONIC SIGNATURES.....	23
43.0	SURVIVAL.....	24

AFFIDAVIT OF COMPLETION**Exhibit 1**

AEP GENERAL TERMS AND CONDITIONS FOR LABOR AND SERVICES

1.0 DEFINITIONS

- 1.1 Business Day: “Business Day” means any calendar day, other than a Saturday or Sunday or a calendar day on which U.S. commercial banking institutions are authorized or required by law to close.
- 1.2 Change Order: “Change Order” means a written order as defined and issued in accordance with Article 12.0.
- 1.3 Contract: “Contract” means collectively the Contracting Instrument and all documents referenced in the Contracting Instrument and any Change Orders, amendments or addenda.
- 1.4 Contract Price: “Contract Price” means the price to be paid to the Contractor for the performance of Work as set forth in the Contracting Instrument.
- 1.5 Contracting Instrument: “Contracting Instrument” means the contractual document that identifies the parties, the nature of the Work, the Contract Price, documents to be included as part of a Contract, and other matters relating to a Contract. The Contracting Instrument may be in the form of a contract letter, blanket purchase order, purchase order or other similar documents.
- 1.6 Contractor: “Contractor” means the entity contracting with Owner for the performance of Work.
- 1.7 Direct Cost: “Direct Cost” means the actual costs and charges incurred and payments made by Contractor, its Subcontractors, for Site equipment, materials, services and labor (including payroll burden and expenses) which are directly attributable to the performance of Contractor’s Work hereunder. Direct Cost includes Contractor’s home office or Site labor to the extent Contractor’s home office or Site labor is directly assignable to the Work which must be demonstrable under the circumstances. Direct Cost shall not include corporate, general and administrative costs including home office functions, sales, marketing, accounting, human resources, information technology, payroll, profit, research, development, quality assurance and control, purchasing, safety, management, administration, warranties, insurances, off-Site or other unabsorbed costs.
- 1.8 Final Acceptance: “Final Acceptance” means Owner’s determination that the Work has been completed in accordance with the Contract requirements.
- 1.9 Initial Acceptance: “Initial Acceptance” means Owner’s determination prior to final inspection and testing that the Work conforms to the Contract requirements for purposes of receipt.
- 1.10 Owner: “Owner” means any one or more of the companies of the American Electric Power System as may be specified in the Contract Instrument.
- 1.11 Site: “Site” means Owner's property or such other premises (including adjacent bodies of water and property owned or controlled by a third-party) upon which the Work is to be performed.
- 1.12 Subcontractor: “Subcontractor” means vendors, suppliers, consultants, and subcontractors of any tier, materialmen, professionals, laborers, and all other persons providing equipment, materials or services directly or indirectly to Contractor in connection with the Work.
- 1.13 Work: “Work” means all of Contractor's obligations under the Contract.

2.0 CONTRACTOR'S OBLIGATIONS

- 2.1 Contractor shall at its expense provide everything necessary for the complete, proper and timely execution of the Work including, but not limited to, home office support, supervision, labor, tools, transportation, safety equipment, construction equipment, temporary utilities and facilities, equipment to be installed, materials and supplies, unless explicitly excluded in the Contract. Contractor's performance of the Work shall include everything requisite and necessary to comply with prudent electric utility industry standards and to complete its Work, notwithstanding the fact that every item necessarily involved may not be specifically mentioned. Details and items not indicated by the Contract documents shall be adequately and properly performed by Contractor at no extra cost if such details and items are necessary to complete the intent of the Contract or otherwise to complete the Work.
- 2.2 Contractor is responsible for considering the conditions affecting the Work including, but not limited to, conditions affecting the transportation, disposal, handling and storage of materials; the availability and cost of labor, water, electric power, utilities and roads; the uncertainties of weather, river stages, and similar physical conditions at the Site; the conformation and condition of the ground; and the character of equipment and facilities needed. Contractor shall take into account the character, quality and quantity of surface and subsurface materials or obstacles to be encountered to the extent this information is reasonably ascertainable from the contract documents or an inspection of the Site.
- 2.3 Contractor shall immediately and before such conditions are disturbed notify Owner of: (a) subsurface or latent physical conditions at the Site which differ materially from those indicated in the Contract; (b) unusual geologic conditions at the Site which differ materially from conditions ordinarily encountered or from conditions addressed in the Contract; or (c) artifacts or articles which appear to have archaeological or historical significance. Owner shall promptly investigate such conditions and, if such conditions do materially differ and cause an increase or decrease in Contractor's cost of, or the time required for, performance of any part of the Work, the parties shall agree to amend the Contract. No claim of Contractor under this clause shall be allowed unless Contractor has given immediate notice as required above and confirmed such notice in writing within ten (10) days of discovery.
- 2.4 Contractor shall have an authorized representative at the Site to whom Owner may give instructions at all times when Work is being performed.
- 2.5 Contractor shall assign qualified and competent personnel to perform the Work and have qualified and competent supervision at the Site at all times to direct and observe the Work. Key personnel shall not be removed from the Work without prior notice to, and consent by Owner which shall not be unreasonably withheld. Contractor will investigate and take appropriate action with respect to any personnel problems brought to its attention by Owner.
- 2.6 Contractor shall confine all of its operations and personnel to those areas of the Site to which Owner authorizes access.
- 2.7 Contractor's personnel may not operate Owner's tools, vehicles, materials or equipment ("Owner's Equipment") without Owner's prior authorization. If Contractor borrows Owner's Equipment, Contractor (a) agrees that Owner has provided Owner's Equipment AS IS, with no representations or warranties; (b) assumes full responsibility for the protection of the borrowed Owner's Equipment; (c) assumes all liability for injuries or damages resulting from the use of the borrowed Owner's Equipment; and (d) agrees to return the borrowed Owner's Equipment to Owner in the same condition as when it was borrowed, or, if repairs are necessary, to cause such repairs to be performed promptly at Contractor's expense before the Owner's Equipment is returned to Owner. Owner has no obligation to lend Owner's Equipment to Contractor.

- 2.8 Contractor shall cooperate with Owner and others working at or near the Site. Contractor shall promptly report to Owner any defects in the work of others which affects the Work. Failure to report such defects constitutes acceptance of the conditions by Contractor. Contractor shall properly fit, connect and coordinate its Work with that of Owner and other contractors.
- 2.9 Contractor shall keep all of its work areas free from trash and debris, and keep its work areas "broom clean" on a continuous basis.
- 2.10 Contractor shall secure and protect its materials, tools, equipment and the Work, including Owner-provided materials and equipment.
- 2.11 Contractor is responsible for the proper execution of the Work with respect to any base lines and bench marks established by Owner.
- 2.12 If the Work is subject to prevailing wage requirements, Contractor agrees to comply with such requirements.
- 2.13 Contractor, its Subcontractors, and their respective employees and agents involved in the Work shall adhere to the provisions contained in Owner's Code of Business Conduct which can be found at Owner's website.

3.0 TERM AND EFFECTIVE DATE

- 3.1 The Contract shall commence as of the effective date and, unless earlier terminated as provided in Article 27.0, shall terminate on the termination date set forth in the Contract. Unless specified elsewhere in the Contract, the effective date of the Contract shall be the earlier of the date on which Contractor begins performance hereunder or the date of the latter signature on the Contract.

4.0 RELATIONSHIP OF THE PARTIES

- 4.1 Contractor and all of its employees and Subcontractors are, with respect to Owner, independent contractors. Contractor will be solely responsible for the supervision, direction, and control of its employees and Subcontractors. Contractor is responsible for the payment of all compensation, benefits, and employment taxes with respect to the Contractor's employees.

5.0 ASSIGNMENT AND SUBCONTRACTING

- 5.1 Contractor shall not assign or otherwise dispose of the Contract, or any obligations hereunder, without the written consent of Owner. Any assignment or disposal without the written consent of Owner shall be null and void.
- 5.2 Prior to entering into any subcontract, Contractor shall submit to Owner a subcontractor data sheet that includes the name and address of the Subcontractor and the scope of work proposed to be included under such subcontract. Within five (5) Business Days of receipt of a Subcontractor data sheet, Owner may reject such Subcontractor without cost or contract extension by giving written notice of such rejection to Contractor.
- 5.3 Contractor is responsible for the selection of any Subcontractor and for the Subcontractor's proper performance of the Work assigned to it. If the work of a Subcontractor is not in compliance with the Contract requirements, Contractor shall take immediate steps to bring the Subcontractor's work into compliance and, at Owner's written request, terminate its contractual relationship with the Subcontractor as it relates to the Work at no cost to Owner.

6.0 LABOR RELATIONS

- 6.1 Contractor shall comply with any project, national or local labor agreements that are applicable to the Work or Site. Contractor shall cooperate with Owner and other contractors in establishing and maintaining labor work rules and practices.
- 6.2 When the Work is performed by building and construction trades labor, a pre-job conference shall be held with local labor representatives prior to starting Work. Owner shall be afforded the opportunity to attend and participate in pre-job conferences.
- 6.3 Contractor shall provide immediate notice to Owner of any actual or potential labor dispute that may delay the timely, efficient and productive performance of the Work.
- 6.4 Contractor shall inform and cooperate with Owner on labor matters. Contractor shall consult with Owner prior to rendering its decision(s) on labor matters that may impact the timely, efficient and productive performance of the Work.
- 6.5 Contractor shall exercise its management rights contained in applicable labor agreements to establish, maintain, and enforce work rules conducive to timely, efficient, productive and harmonious work operation. Contractor shall take the necessary steps available to resolve grievances, jurisdictional disputes, or other violations of collective bargaining agreements.

7.0 SAFETY AND SECURITY

- 7.1 Contractor shall perform the Work in a safe and careful manner, provide first aid facilities and transportation, and use such safety devices and methods as are necessary to protect its employees, agents, Subcontractors, Owner's employees and agents, other contractors and the public from bodily injury and property damage.
- 7.2 Contractor shall comply with and enforce all laws, rules and regulations applicable to safety and health standards, including, but not limited to, the Occupational Safety and Health Act of 1970 (OSHA) and any revisions of OSHA or successor legislation.
- 7.3 Contractor shall comply with project and Site safety and security rules and all procedures issued by Owner, provided that such rules and procedures do not conflict with OSHA or other safety laws, rules or regulations. Contractor shall assign a competent person at all times to manage, coordinate and enforce its safety program during performance of the Work.
- 7.4 Contractor shall provide Owner with Material Safety Data Sheets (MSDS) for all applicable materials prior to delivery to Owner's Site.
- 7.5 Contractor shall obtain Site permits or approval from Owner for its vehicles, any excavation, use of explosives, access to restricted areas, use of Owner's Equipment, tools and facilities, and other similar activities.
- 7.6 Owner will arrange all necessary clearances on energized equipment, electrical and communications circuits, piping systems or other operational equipment. Contractor shall notify Owner requesting the clearances prior to the scheduling of such Work. Contractor shall comply with Owner's clearance permit system regarding tagout and lockout of electrical and mechanical systems and other equipment.
- 7.7 Contractor shall fully inform Owner in writing regarding the types, quantities and use of any hazardous materials brought on the Site; the types and quantities of hazardous wastes being generated from the Work; and Contractor's program for proper storing, handling and disposal of such materials in a safe and secure manner.

- 7.8 Contractor shall immediately inform Owner of all regulatory safety, health and environmental inspections, citations and penalties associated with the Work. Contractor shall provide Owner with written reports and copies of all documents submitted to or by regulatory agencies and insurance companies.
- 7.9 Contractor shall promptly inform Owner of any injuries to its employees, agents, Subcontractors, or other persons arising out of the Work that require medical treatment.
- 7.10 Contractor shall obtain, maintain, and properly complete all record keeping required by regulatory agencies. Upon request, Contractor shall provide Owner with copies of all logs, reports and other records.
- 7.11 Contractor shall investigate all accidents resulting in personal injury, property damage, or near misses to determine root cause(s) and corrective action(s). Upon request, Contractor shall provide Owner with a copy of investigative reports, including all documents submitted to insurance companies.
- 7.12 All of Contractor's employees, agents, Subcontractors, vehicles, trailers, etc. entering or leaving the Site are subject to inspection at any time by Owner.
- 7.13 If a safety violation or other unsafe condition causes imminent danger, Owner may immediately shut down the Work involved without advance written notice.
- 7.14 Contractor and all Subcontractors performing Work at Site must have a substance abuse program. This program must apply to all personnel. Minimum requirements of this program shall include pre-hire testing, testing for cause and if requested, random testing. Screening substances and their associated cut-off limits are listed below.

<u>Drug Classes</u>	<u>Screening Cut-Off Limit (ng/ml)</u>	<u>Confirmation Cut-Off Limit (ng/ml)</u>
Amphetamines	1,000	500
Benzoylcegonine	300	150
Cannabinoids	50	15
Opiates	2,000	2,000
Phencyclidine	25	25

Blood & Breath alcohol content : .02% per Department of Transportation.

Testing shall be performed by a testing facility certified by Department of Health & Human Services. Personnel must have evidence of having tested negative within a year prior to employment. Owner will accept conditional employment predicated upon (a) employee(s) furnishing evidence that they have submitted to testing within forty-eight (48) hours of initial employment and (b) employee(s) furnishing evidence of negative test results within five (5) work days of initial employment. Contractor shall ensure personnel are "drug free". Owner reserves the right to examine evidence outlined herein. Contractor's program shall incorporate reciprocity on "drug free" employee verification to minimize Owner's economic impact and employee recertification while maintaining the program's intent.

- 7.15 If required by Owner, Contractor must meet certain security criteria set forth herein.
- 7.15.1 Contractor shall submit to Owner a copy of its background investigation process for Owner's review and file. If Owner, in its sole discretion, determines that Contractor's background investigations do not meet certain specific requirements, then Contractor, at

its expense, must perform a background investigation that does meet Owner's certain specific requirements on each individual designated by Contractor to perform Work, or is performing Work on behalf of Contractor, for Owner (referred to herein for purposes of this Article, as an "individual"). Notwithstanding anything to the contrary stated herein, Owner reserves the right to conduct a background investigation on each individual at Contractor's expense.

- 7.15.2 Owner's certain specific requirements of background investigations include the following: (i) determination of whether an individual has been convicted of a felony crime in each state where the individual has resided during the past seven years; (ii) performance of the background investigation at the state level (in other words, to only search the records of the county in which the individual has resided during the past seven years is not a sufficient background investigation); and (iii) if the individual is to operate a motor vehicle while performing Work for Owner, then a state operator's license abstract must be completed in the states where the individual has been licensed as a vehicle operator during the past seven years.
- 7.15.3 If any background investigation reveals or indicates that an individual has been convicted of a felony crime, then the Contractor must notify the Owner prior to the individual commencing Work. Owner in its sole discretion shall have the option of barring from any Work Site any individual who has a reported felony conviction. Owner may audit or review specific Contractor screening files to ensure compliance with the Contract.
- 7.15.4 If an individual requires unescorted access to Owner's critical cyber assets, then Owner will conduct its own background investigation, which will include a Social Security Number verification. Additional specific provisions or requirements related to any Owner conducted background investigation pursuant to this Section 7.15.4 will be communicated to Contractor prior to implementation of such background investigation.
- 7.15.5 Contractor shall not perform any screening activities that violate the federal Fair Credit Reporting Act, Title VII of the Civil Rights Act of 1964 or any other applicable law in any circumstances. Contractor shall ensure that the substance and manner of any and all background investigations performed by Contractor conform fully to applicable law.
- 7.16 "Personally Identifiable Information" or "PII" means any information to which Contractor is provided access that could identify an individual either directly or indirectly including, without limitation to the individual's name, credit card numbers, social security number, biometric, bank account numbers, passport numbers, computer passwords or health, financial or employment information and other individual confidential information.
- 7.16.1 To the extent that Work under the Contract requires Contractor to be given access to PII gathered and/or maintained by or on behalf of Owner, or in the event Contractor acquires access to or encounters any PII during performance of the Work, Contractor shall after receipt thereof, treat such PII as confidential and safeguard such PII from unauthorized use and disclosure. Upon request of Owner, Contractor shall have its employees execute a confidentiality agreement protecting PII. Contractor agrees not to appropriate such PII for its own use or to disclose such PII to third parties unless specifically authorized by Owner in writing. Contractor shall ensure that its employees will not discuss, divulge or disclose any such PII to any person or entity except those persons directly concerned with and only to the extent necessary to complete the performance of the Work. Contractor shall access, use and process PII and other data on behalf of Owner only for the purposes specified in the Contract.

- 7.16.2 Contractor shall comply with (i) NERC Reliability Standards as applicable, including without limitation, those relating to Critical Infrastructure Protection, (ii) Owner's security standards, and (iii) such further instructions as Owner may provide regarding the processing of such PII. Contractor shall inform Owner promptly if it has reason to believe that applicable law (or changes in applicable law) prevents Contractor from fulfilling the obligations relating to treatment of PII or other data under Owner's security standards and/or the Contract.
- 7.16.3 To the extent permitted by law, Contractor shall notify Owner promptly and act only upon Owner's instruction concerning: (a) any request for disclosure of PII or other data by law enforcement or other governmental authority; (b) any request by law enforcement or other governmental authority for information concerning the processing of PII or other data in connection with the Contract; or (c) any request received directly from an individual concerning his/her PII.
- 7.16.4 Contractor may not store PII on computers, mobile devices, including but not limited to cellular telephones and/or personal digital assistants, servers and/or storage devices including removable media (any of which, hereinafter known as a "Computer"), unless required for the performance of Work. Any such information must be deleted from a Computer, in a manner that ensures that it cannot be accessed or read, as soon as such storage is no longer required for the performance of Work.
- 7.16.5 Upon termination of the Contract or upon Owner's request, Contractor must promptly (a) return all PII in written form to Owner, and (b) delete all PII in Contractor's possession or control (on computer or in whatever other form or media) in a manner that ensures that this information cannot be accessed or read.
- 7.16.6 Contractor shall administer a monitoring process to ensure compliance with Section 7.16 and the related subsections hereof, promptly report any breaches to Owner, and implement immediate, appropriate corrective actions to contain and prevent recurrence. Contractor shall report to Owner immediately upon discovery of a real or suspected loss of PII. In the event of a breach of this provision or the occurrence of any other event regarding PII that requires notification under applicable law, Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law.
- 7.16.7 In addition to any remedy available to Owner under the Contract, Contractor acknowledges that any breach of Section 7.16 or the related subsections hereof by Contractor or its Subcontractors may subject Contractor to civil and criminal penalties. Contractor shall include the full text of Section 7.16 and the related subsections 7.16.1 through 7.16.7 in all appropriate subcontracts. However, including such provision in the subcontracts shall not relieve Contractor of its obligation to ensure compliance with the provisions of Sections 7.16.1 through 7.17.7.

8.0 MATERIALS

- 8.1 All Contractor-furnished materials, equipment and related products (referred to in this Article 8.0 as "Materials"), which are to be installed shall be new and meet the requirements of all applicable codes. Materials which will not become a part of the permanent installation are not required to be new. Owner reserves the right to reject materials which have not been previously used but which have been in storage for an unreasonable period of time. Title to and risk of loss of the Materials shall pass to Owner upon Final Acceptance of the Work. Title to the Materials shall be free and clear of all liens and encumbrances.

- 8.2 Contractor shall not substitute Materials specified in the Contract unless authorized by Owner in writing. Unless substitution has been so authorized, Contractor shall, at its expense, remove and replace any improperly substituted material.
- 8.3 Upon Owner's request, Contractor shall, at its expense, submit to Owner samples of Contractor-furnished materials. Contractor must obtain Owner's written approval before performing Work involving the use of materials for which samples have been requested. Approval by Owner shall not relieve Contractor from responsibility for complying with the requirements of the Contract and all applicable codes. Materials used shall conform to the approved samples. Contractor shall remove and replace nonconforming materials at its expense.

9.0 INSPECTION AND ACCEPTANCE

- 9.1 Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the Work performed conforms to the Contract requirements. Owner reserves the right to review and approve the adequacy of Contractor's inspection system. Contractor shall provide all quality control and quality assurance program information requested by Owner.
- 9.2 Owner shall have free access to the Work for inspection purposes. Owner's inspection, receipt or Initial Acceptance of the Work shall not relieve Contractor of its obligation to comply with the terms of the Contract.
- 9.3 Each party shall bear its own expenses in performing inspections, except that (a) Owner may use Contractor's facilities, ladders and scaffolds to perform inspections of the Work; (b) Contractor shall pay Owner's expenses in re-inspecting Work which was rejected as non-conforming to the Contract requirements in an earlier inspection; (c) Contractor shall pay the costs of uncovering and re-covering Work for Owner's inspection if Contractor failed to give Owner reasonable notice that the Work was ready to be covered; and (d) prior to Final Acceptance, if Owner requests an inspection of Work already completed which requires removing and tearing out Work, and the Work is found to be materially defective, Contractor shall pay the expenses of inspection and reconstruction, but if the Work is found to be in conformance with the Contract requirements, Owner shall pay the expenses of inspection and reconstruction.
- 9.4 Owner will not pay for defective work. Contractor shall repair or replace all defective work at its expense. Contractor shall promptly remove from the Site any Contractor-furnished materials that do not comply with the requirements of the Contract. If Owner-furnished materials have been used in any defective work, the cost of such materials shall be backcharged to Contractor.
- 9.5 Owner shall have the right to take possession of or use any part of the Work. Owner's possession or use shall not constitute Initial Acceptance or Final Acceptance of the Work.
- 9.6 Unless otherwise provided in the Contract, Final Acceptance by Owner shall be made as soon as practicable after all Work has been completed and inspected. Any part of the Work not rejected by Owner following Final Inspection shall be deemed to have achieved Final Acceptance.

10.0 SCHEDULE

- 10.1 Contractor shall perform the Work to meet the schedule date(s) set forth in the Contract. Contractor shall not commence Work until authorized by Owner to do so.
- 10.2 In a format acceptable to Owner, Contractor shall develop, update, maintain and provide to Owner a written schedule for execution of the Work. The schedule shall be time scaled, complete, and accurate in detail depicting Contract milestone dates, work activities and durations. Upon review and approval by Owner, this schedule shall become the Contract schedule. Updates to the Contract schedule shall

be provided to Owner on at least a monthly basis. Updates shall depict actual progress measured against planned progress.

- 10.3 Contractor shall notify Owner within 24 hours of the first knowledge that any completion date(s) will not be met and shall, within five (5) Business Days thereafter, submit a detailed program depicting the plans and actions being taken to regain the lost time. The notice shall not limit any other rights or remedies afforded Owner under the Contract or by law.

11.0 TERMS OF PAYMENT

- 11.1 Except as otherwise provided in the Contract, the following terms of payment shall apply:

- 11.1.1 The Contract Price set forth in the Contract shall constitute full and complete payment for all Work.
- 11.1.2 Contractor shall submit invoices with proper documentation to Owner for the Work completed or for milestones achieved during the prior month. Owner may withhold all or any part of payment in an amount necessary to protect Owner from loss due to the occurrence, or imminent occurrence, of (i) Contractor's breach or failure to perform in accordance with the Contract, (ii) defective Work, (iii) Contractor's failure to pay any Subcontractor, (iv) other claims by Owner against Contractor, including indemnity claims, and (v) damages for delay or any agreed upon liquidated damages.
- 11.1.3 Owner shall pay 90% of each properly submitted and accepted invoice within forty five (45) days of receipt. The release of retention shall become due and payable forty five (45) days after the date of Final Acceptance of the Work.
- 11.1.4 Each invoice shall contain a statement that all bills for material and labor relating to the Work have been paid in full by Contractor, and there are no unpaid bills for which a lien could be filed. If requested by Owner, Contractor shall provide evidence of such payments. The final invoice for the Work shall be accompanied by a satisfactorily completed Affidavit of Completion in the form attached as Exhibit 1. Payment of the final invoice and retention constitutes a full and final release of Owner from all claims, damages, liabilities and obligations under the Contract.

- 11.2 Contractor shall promptly pay all of its Subcontractors.

12.0 CHANGES IN WORK AND EXTRA WORK

12.1 Change in Work

- 12.1.1 "Change Order" means a written order issued in accordance with this Article 12.0 documenting an addition to, deletion from, or other modification to the Work, including a change in the scope of Work, the Contract Price, the payment schedule, the completion dates, or the schedule for the Work.
- 12.1.2 Owner may issue a Change Order: (i) at Owner's option, or (ii) if requested by Contractor due to the occurrence of an event that entitles Contractor to a Change Order as determined by Owner.
- 12.1.3 If Owner issues a Change Order, Contractor shall perform the changed Work in accordance with the terms of the Contract and the issued Change Order.

- 12.1.4 No order, statement or other conduct of Owner shall be treated as a change in Work until such change is authorized in writing by Owner.
- 12.1.5 Contractor shall not be entitled to a Change Order for conditions such as, but not limited to, (i) work which is of such a nature as to be normally included in the Work or is reasonably inferable from the Contract; (ii) any errors, omissions, non-performance, negligence, deficiencies or improper or defective work on the part of Contractor (including miscalculations, incorrect estimates, or other errors in Contractor's proposal for the Work); (iii) changes relating to refinement, minor correction and detailing of the Work or any part of the Contract; or (iv) other unallowable claims such as cost impacts not due to Owner and cumulative impact claims.
- 12.1.6 With respect to Contractor claims for additional compensation, Owner shall pay only incremental Direct Costs associated with the proposed changes and only to the extent that Contractor can demonstrate that the changes actually increased its costs of performance. Any claims for additional compensation based on a change to the Work or extra work must be material in nature, and Contractor must provide full documentation supporting all elements of such claims. For a reduction in the scope of Work or a change which reduces Contractor's costs, the Contract Price shall be adjusted downward. The payment for changes to the Work shall be complete compensation to Contractor for performing such changes, including any schedule or cost impacts on the Work.
- 12.1.7 If Owner requests in writing that Contractor furnish materials or equipment to be permanently incorporated in changed work, extra work or cost-plus work, Owner shall reimburse Contractor for such materials or equipment its incremental Direct Cost plus a percentage mark-up to be agreed upon by the parties. Requests for payment for materials and equipment shall be accompanied by copies of receipted invoices. Owner has the right to audit Contractor's requests for changes and the financial basis therefor.
- 12.1.8 If Contractor and Owner disagree on whether any particular work is within the scope of Work and such work must be completed to insure timely progress, Owner will issue a disputed Change Order to cover the disputed work. Contractor shall diligently proceed with the disputed work. By noon on the work day following performance of the disputed work, Contractor shall submit to Owner for review timesheets itemizing all labor and equipment hours expended on the disputed work and an itemized listing of Contractor furnished materials. Such review is not an admission of liability by Owner. Prior to Final Acceptance, each disputed Change Order will be resolved to the mutual agreement of the parties.
- 12.2 Extra Work
- 12.2.1 "Extra work" is work which is beyond Contractor's scope of Work. At Owner's request, Contractor shall perform extra work at the applicable prices set forth in the Contract. If the Contract prices are not applicable to the type of extra work to be performed, Contractor shall promptly submit a proposal to perform the extra work, which proposal shall become an amendment to the Contract upon acceptance by Owner. If Owner directs Contractor to perform extra work on an overtime basis, Owner shall reimburse Contractor the actual payroll cost of premium time for direct job labor. Contractor shall invoice and maintain separate cost records for each extra work authorization issued by Owner.
- 12.2.2 If Owner elects, Contractor shall perform extra work on a cost-plus basis. Cost-plus extra work shall be paid in accordance with Article 13.0.
- 12.3 Contractor waives all claims for additional compensation for changes in work and extra work not made strictly in accordance with the terms of this Article 12.0.

13.0 REIMBURSEMENT FOR COST-PLUS WORK

- 13.1 Direct labor costs will be reimbursed at the actual payroll costs of direct labor wages, fringe benefits, payroll taxes and insurance required by collective bargaining agreements or by law, plus an agreed wage mark-up. Copies of certified payrolls and time sheets shall be provided to Owner for review and approval. Contractor shall not invoice Owner for social security, unemployment, workers' compensation, or other federal, state or local taxes or insurance at rates which exceed Contractor's actual costs.
- 13.2 Owner will pay Contractor actual invoice costs for subcontracted work, provided Owner has approved payment terms in advance of performing the work, plus an agreed mark-up.
- 13.3 Contractor-furnished permanent materials and equipment costs will be reimbursed at actual invoice costs plus an agreed mark-up.
- 13.4 Construction equipment costs will be reimbursed based on actual usage time during the performance of Work and established rental rates not to exceed monthly rates set forth in the "Rental Rate Blue Book for Construction Equipment" adjusted for geographical region as published by Dataquest or other basis acceptable to Owner. Hourly rates shall be established by taking the monthly rate divided by 176 hours per month.
- 13.5 Small tools and consumables costs will be reimbursed based on agreed rates.
- 13.6 Field supervision, clerical, safety and other non-direct labor costs will be reimbursed at agreed billing rates, except that reimbursement for these costs for cost plus extra work shall require the prior review and approval of Owner.

14.0 BACKCHARGES

- 14.1 Owner may impose backcharges against Contractor or deduct backcharges from monies owed to Contractor for performance or reperformance by Owner or others of Work, including but not limited to, costs associated with defective work, nonperformance by Contractor, termination for cause, clean-up and disposal of debris, damages to Owner's tools and equipment and warranty repairs. Contractor will be responsible for the cost of such performance or reperformance plus a fifteen percent (15%) administrative charge.

15.0 TAXES

- 15.1 The Contract Price shall include, and the Contractor shall pay, all taxes and assessments for unemployment insurance, workers' compensation, social security and disability benefits, and other taxes which are based upon the compensation paid to persons employed by Contractor or its Subcontractors for the performance of any Work under the Contract.
- 15.2 Except as provided below, the Contract Price shall include all applicable foreign, federal, state and local taxes payable by Contractor with respect to the Contract.
- 15.2.1 Contractor Purchases. If Owner specifies that tangible personal property to be incorporated into real property as defined for sales and use tax purposes or taxable services to be purchased by Contractor from vendors or Subcontractors qualify for exemption from sales or use taxes, Contractor shall not include sales or use taxes on such exempt tangible personal property or services in the Contract Price. Unless otherwise specified: a) consumable materials and supplies or Contractor's tools and equipment that are not incorporated into the Work or the overall project are not eligible for exemption

and the Contract Price shall include, and Contractor shall pay, any sales or use taxes on such items; and b) Contractor will use its own properly-executed exemption or resale certificate, and not Owner's direct pay permit, to make exempt purchases of tangible personal property or services from vendors or Subcontractors.

- 15.2.2 Owner Purchases from Contractor. With respect to any Owner purchases from Contractor of tangible personal property not incorporated into real property as defined for sales and use tax purposes or taxable services, Owner shall provide to Contractor its direct pay permit (if Owner has been issued a direct pay permit) or an appropriate exemption certificate required to relieve the Contractor of its responsibility to collect sales or use tax from the Owner. If Owner provides Contractor such direct pay permit or exemption certificate, sales or use taxes on Owner purchases from Contractor of tangible personal property or taxable services shall not be collected from Owner or included in the Contract Price. Unless otherwise approved or directed by Owner in writing, Contractor shall not use Owner's direct pay permit to make exempt purchases of tangible personal property or taxable services from vendors or Subcontractors.
- 15.2.3 Contractor Cooperation. Contractor shall take all steps reasonably necessary to ensure that Contractor's purchases from vendors or Subcontractors of items of tangible personal property or services are exempt from sales and use tax pursuant to any applicable exemption pursuant to the law of any U.S. jurisdiction or its political subdivisions.

16.0 INSURANCE

- 16.1 Contractor shall at its sole expense, procure and maintain, and shall cause its Subcontractors to procure and maintain, throughout the term of this agreement except as set forth in Section 16.5, the following types of insurance with the following, minimum limits:
- 16.1.1 Workers' compensation insurance in accordance with all jurisdictions where Contractor has operations including where the Work is to be performed. If Contractor is a non-subscriber to workers' compensation evidence of insurance equivalent to workers' compensation must be provided.
- 16.1.2 Employer's liability in an amount not less than \$1,000,000.
- 16.1.3 Business automobile insurance covering all Owned, Non-owned and Hired Autos in an amount not less than \$5,000,000 per occurrence.
- 16.1.4 Commercial general liability insurance covering claims of bodily injury and property damage in an amount not less than \$5,000,000 per occurrence.
- 16.1.5 Aircraft liability insurance with a combined limit of not less than \$10,000,000. Such insurance shall be required only if the Contractor or its Subcontractors shall utilize an aircraft in the performance of the Work.
- 16.1.6 If Contractor (or any of its Subcontractors) are engaged in operations which use marine vessels or floating equipment, or which are subject to maritime jurisdiction, the following insurance shall be required: Marine Liability insurance (including Jones Act and maritime employer's liability if operations are subject to federal jurisdiction) and pollution liability (under terms equivalent to current W.Q.I.S. policy provisions if operations are subject to federal jurisdiction) in amounts not less than \$10,000,000 per occurrence.

- 16.1.7 Professional liability insurance and/or Errors and Omissions insurance in an amount not less than \$5,000,000. Such insurance shall be required only if the Work includes professional liability exposures.
- 16.1.8 “All risk” property insurance covering the full replacement cost of Contractor’s personal property.
- 16.2 To the extent permitted by law, Contractor shall waive, and shall cause each of its insurers to waive, any and all rights of recovery, by subrogation or otherwise, against Owner and its affiliates, officers, directors, employees, agents and assigns of any type. Each of Contractor’s insurance policies shall be primary to and non-contributory with any insurance or self-insurance of Owner.
- 16.3 The Commercial General Liability, the Business Automobile, and (if applicable) the Aircraft Liability and Marine Liability insurance shall include Owner as an additional insured with respect to Owner’s liability arising out of the operations of Contractor. Such coverage shall also include blanket contractual coverage and contain no exclusion for explosion, collapse, or underground property damage (XCU coverage).
- 16.4 The insurance required by this Article 16.0 is in addition to and separate from any other obligations contained in the Contract.
- 16.5 Products and/or completed operations coverage shall be maintained for a period of five (5) years after the completion of the Work. If any of the policies indicated above are placed on a “claims-made” basis, such coverage shall be maintained for a period of not less than five (5) years following the completion of the Work.
- 16.6 Any deductibles or retentions on any of the policies required herein shall be the sole responsibility of the Contractor.
- 16.7 The above referenced limit requirements may be met by any combination of umbrella or excess and primary policies so long as the total limit of insurance requirement is met. The required coverages referred to herein shall in no way affect, nor are they intended as a limitation of, Contractor’s liability with respect to its performance of the Work. The limits of insurance indicated herein are minimum requirements and are in no way intended to limit Contractor’s liability.
- 16.8 In all cases where Contractor’s employees (defined to include Contractor’s direct, borrowed, special, or statutory employees) are covered by the Louisiana Worker’s Compensation Act, La. Rev. Stat. Ann. 23:1021 et seq., Owner and Contractor agree that pursuant to Section 23:1061 (A) (1) all Work performed by Contractor and its employees under the terms and conditions of the Contract is an integral part of Owner’s operations and is essential to Owner’s ability to generate its goods, products and services. Additionally, Owner and Contractor agree that for purposes of Section 23:1061 (A) (3) Owner is the principal or statutory employer of Contractor’s employees. Irrespective of Owner’s status as the statutory employer or special employer of Contractor’s employees, pursuant to Section 23:1031 (C), Contractor shall remain primarily responsible for the payment of Louisiana Worker’s Compensation benefits to its employees, shall indemnify Owner from any and all claims of Contractor’s employees or its Subcontractor’s employees and shall not be entitled to seek contribution for any such payments from Owner.
- 16.9 Upon inception of the Contract and prior to commencement of Work, Contractor shall provide Owner with an acceptable certificate of insurance evidencing the insurance required under Article 16. Contractor will not be permitted to bring its employees, materials or equipment onto the Site until Owner receives from such evidence of insurance. Contractor also must provide an updated certificate of insurance at any time during the Contract term upon Owner’s request. Contractor

shall immediately notify Owner of cancellation or of any material changes in the insurance policies required herein. If such insurance policies are subject to any exceptions to the terms specified herein, such exceptions shall be explained in full in such certificates. Owner may, at its discretion, require Contractor to obtain insurance policies that are not subject to non-standard exceptions.

- 16.10 In lieu of Sections 16.1 thru 16.9, the Owner may elect to implement an Owner Controlled Insurance Program ("OCIP"). If an OCIP is implemented, all Contractor(s) and Subcontractor(s) of any tier and such other persons or entities as the Owner may designate as enrolled parties, may, at Owner's option, be required to enroll and participate. Owner shall procure and maintain at its own expense during the performance of this Contract and a stipulated completed operations period, such insurance coverage as Owner deems appropriate on behalf of enrolled parties. Eligible Contractor(s) and Subcontractor(s) must submit all necessary enrollment forms for acceptance into the OCIP, and agree to the terms of the Owner's project safety standards. Owner and Contractor agree that the terms of the OCIP as contained in amendments to this Contract and the OCIP Contractor Manual shall control. The OCIP does not relieve any Contractor or Subcontractor from its obligations to procure coverage for offsite operations or coverages not included in the OCIP. In the event an OCIP is implemented, amended insurance requirements for enrolled parties will be provided.
- 16.11 The furnishing of insurance by Owner through an OCIP will in no way relieve or limit any enrolled party of any responsibility, liability, or obligation imposed by the contract documents or by law, including without limitation any indemnification obligations which any enrolled party has to the Owner thereunder.

17.0 INDEMNIFICATION

- 17.1 The laws of the state where the Work giving rise to the claim is performed shall apply to this Article 17.0.
- 17.2 **TO THE EXTENT PERMITTED BY LAW, CONTRACTOR SHALL INDEMNIFY, DEFEND AT ITS EXPENSE, AND SAVE OWNER HARMLESS FROM, ANY LIABILITIES, COSTS AND CLAIMS, INCLUDING JUDGMENTS RENDERED AGAINST, AND FINES AND PENALTIES IMPOSED UPON, OWNER AND REASONABLE ATTORNEYS' FEES AND ALL OTHER COSTS OF LITIGATION (COLLECTIVELY, "LIABILITIES"), ARISING OUT OF THE CONTRACT, INCLUDING INJURIES, DISEASE OR DEATH TO PERSONS, OR DAMAGE TO PROPERTY, AND ENVIRONMENTAL CLAIMS AND LIABILITIES, CAUSED BY CONTRACTOR, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS, OR IN ANY WAY ATTRIBUTABLE TO THE PERFORMANCE OF THE CONTRACT, EXCEPT THAT CONTRACTOR'S OBLIGATION TO INDEMNIFY OWNER SHALL NOT APPLY TO ANY LIABILITIES ARISING FROM OWNER'S SOLE NEGLIGENCE. TO THE EXTENT PROVIDED IN THIS SECTION, IN STATES OTHER THAN OHIO, MICHIGAN, KENTUCKY, TENNESSEE, MISSOURI, OKLAHOMA, VIRGINIA, AND WEST VIRGINIA, CONTRACTOR AGREES TO INDEMNIFY OWNER FOR LIABILITIES ARISING FROM OWNER'S ACTS AND OMISSIONS, NEGLIGENT OR OTHERWISE. OWNER SHALL HAVE THE RIGHT TO SELECT ITS OWN COUNSEL AND TO HAVE COUNSEL SEPARATE FROM CONTRACTOR, ALL AT CONTRACTOR'S EXPENSE.**
- 17.3 **WITH RESPECT TO CLAIMS AGAINST OWNER BY CONTRACTOR'S EMPLOYEES, CONTRACTOR UNDERSTANDS AND AGREES THAT THIS INDEMNIFICATION OBLIGATION SHALL NOT BE LIMITED IN ANY WAY BY, AND CONTRACTOR EXPRESSLY WAIVES, ITS IMMUNITY AS A COMPLYING EMPLOYER UNDER ANY**

APPLICABLE WORKERS' COMPENSATION LAW, BUT ONLY TO THE EXTENT THAT SUCH IMMUNITY WOULD BAR OR AFFECT RECOVERY UNDER OR ENFORCEMENT OF THIS INDEMNIFICATION OBLIGATION. With respect to the State of Ohio, this waiver applies to Section 35, Article II of the Ohio Constitution and Ohio Rev. Code Section 4123.74.

17.4 **CONTRACTOR SHALL BE LIABLE FOR REASONABLE ATTORNEYS' FEES AND ALL COSTS OF LITIGATION ASSOCIATED WITH ENFORCEMENT OF ALL INDEMNITY OBLIGATIONS SET FORTH IN THE CONTRACT.**

18.0 LIMITATION OF LIABILITY

18.1 Except as expressly provided herein, neither party shall be liable to the other for any incidental, indirect, special, punitive or consequential damages. Contractor must bring any cause of action arising under the Contract within one year from the time the cause of action accrues.

19.0 LIENS

19.1 To the extent permitted by law, Contractor shall not file or permit to be filed any lien with respect to the Work and hereby expressly waives any right to file or cause to be filed a lien. Contractor, in its subcontracts, shall require all Subcontractors to expressly waive the right to file any liens against Owner's property, and, if requested, provide Owner with copies of such waivers.

19.2 In the event any claim is asserted or any lien filed against Owner or its property, or notice of lien is provided to Owner in violation of this provision, further payment to Contractor shall not become due under the Contract until the claim is satisfied or the lien released without cost to Owner and Contractor shall provide Owner with evidence of payment relating to such claim or lien. If Contractor fails to settle any claim or secure the release of any lien, Owner may take whatever steps it deems necessary to settle the claim or release the lien, including bonding off the lien. Owner may deduct its costs and expenses for settling any claim or securing the release of any lien filed by Contractor or its Subcontractors from any money due or to become due to Contractor under the Contract. If final payment has been made, Contractor shall reimburse to Owner its costs to settle any claim or secure the release of any lien arising out of the Contract.

20.0 INTELLECTUAL PROPERTY

20.1 Contractor warrants that its performance of the Work will not infringe upon or violate any trademarks, patents, copyrights, trade secrets or other third party property rights. If the performance of Work is held in any action to constitute infringement, or the use of the Work is enjoined, Contractor, at its expense, shall procure for Owner the right to continue use of the Work, or replace the Work with non-infringing materials or methods satisfactory to Owner, or modify the Work in a manner satisfactory to Owner so that the Work becomes non-infringing. Contractor agrees to indemnify and save Owner harmless from and against any liability or damages, including attorneys' fees, arising out of any alleged infringement or violation.

20.2 All inventions, discoveries, documents, works of authorship, methods, and the derivative works thereof, resulting from the Work, including patents, patent applications, copyrights, trade secrets and other intellectual property (collectively "Intellectual Property"), shall be the sole and exclusive property of Owner. Contractor shall promptly inform Owner of the development of any such Intellectual Property and does hereby assign and transfer the entire right, title and interest, together with all rights of priority in and to such Intellectual Property to Owner. Contractor shall promptly cooperate with Owner in signing any additional documentation necessary to assign and perfect ownership of such Intellectual Property in Owner or to allow Owner to register its property rights therein. Contractor warrants that it has obtained written agreements from its employees and

agents as necessary to effectuate the purpose of this Section. The Intellectual Property assigned and transferred to Owner shall be the Confidential Information of Owner.

- 20.3 Contractor grants Owner a nonexclusive, nonrevocable, perpetual, fully paid license to utilize Contractor's intellectual property existing separate from the Contract, including inventions, discoveries, works or authorship, methods, and trade secrets, regardless of whether such are the subject of patents, copyrights or other intellectual property protection, to the extent necessary for Owner to achieve the full benefit of the Work.
- 20.4 Contractor shall not use Owner's name or logo in marketing, endorsements, or other business purposes without prior written consent from Owner.

21.0 DRAWINGS AND DATA

- 21.1 Contractor shall furnish for Owner's review, prior to commencement of Equipment manufacture or fabrication, general and detailed drawings of the Equipment in the format requested. Such drawings shall be certified as to accuracy and completeness and shall show information adequate to enable Owner to design and provide suitable clearances. If required by the Contract or any code, law or agency, Contractor will provide professional engineer or architect sealed drawings and reports for the state where the Equipment is to be finally installed. Figures shall take precedence in all cases over scaled measurements on drawings. Where obvious discrepancies exist, Contractor shall consult with and follow the instructions of Owner. Owner's approval of Contractor's drawings shall not relieve Contractor of its obligation to comply with the Contract requirements.
- 21.2 All written data, such as drawings, plans, reports, designs and specifications, prepared by Contractor for Owner during the performance of Work shall become the property of Owner. Such data, together with all data furnished by Owner and lent to Contractor for return, shall be delivered to Owner upon request, or upon completion of the Work or termination of the Contract. For clarification purposes, Owner shall have the unrestricted right to use, release, disclose, copy and reproduce such data for purposes of operation, maintenance, analysis, testing, cleaning, erection, improvement or modification of any facilities owned or operated by Owner. Contractor shall cooperate with Owner by executing such documents as are necessary to assign and perfect ownership in Contractor provided data to Owner.

22.0 CONFIDENTIALITY

- 22.1 "Confidential Information" means any confidential or proprietary information, whether written, oral, or visual, whether or not it constitutes a trade secret under applicable law. "Confidential Information" includes, but is not limited to, business plans and methods; customer information; engineering, operating and technical data; and the dates of Owner's outage schedule, information concerning the Work, and Owner's activities. "Confidential Information" does not include information that (a) has become part of the public domain other than by acts or omissions of the recipient; (b) has been furnished or made known to the recipient by a third person as a matter of legal right and without restriction on use; (c) was in the recipient's possession prior to disclosure by the disclosing party without restriction on use; or (d) is independently developed by the recipient without access to the Confidential Information.
- 22.2 Subject to Section 22.5, each party agrees (a) to protect the Confidential Information of the other with at least the same degree of care used to protect its own Confidential Information; (b) not to use (except for the purpose described herein), publish or disclose to third parties such Confidential Information; and (c) upon the request of the disclosing party, to promptly deliver to the disclosing party all written copies of its Confidential Information. Notwithstanding the foregoing, a recipient shall be entitled to disclose Confidential Information to its officers, employees, affiliates (including any joint ventures of which Owner or any of its affiliates are a member and the other

members of such joint ventures), agents, lenders, attorneys and other advisors (collectively, "Representatives"), provided that the Representatives shall be informed of the confidentiality obligations provided herein.

- 22.3 If either party is required pursuant to applicable law or otherwise becomes legally compelled to disclose any of the Confidential Information, such party shall promptly advise the disclosing party in order that the disclosing party may seek a protective order or such other remedy as the disclosing party may consider appropriate in the circumstances. In any event, the compelled party may disclose only that portion of the Confidential Information which such party is legally required to disclose in the judgment of the party's legal counsel without any liability to the disclosing party hereunder and such disclosure shall not be a breach of this Section.
- 22.4 Contractor shall require its Subcontractors, if any, to expressly comply with the confidentiality provisions as set forth herein.
- 22.5 All documents prepared by Contractor for Owner during the performance of Work that incorporate, in whole or in part, information owned or provided by Owner shall not be marked or designated in any way as the confidential or proprietary information of Contractor without also stating that Owner has rights in such documents. Owner shall have the right to question the designation of Confidential Information by Contractor and Contractor agrees to provide Owner with reasonable cooperation in explaining such designation. Contractor agrees that Owner's acceptance of documents containing the Confidential Information of Contractor shall not be construed as a restriction on Owner's rights to use, release, disclose, distribute, copy or reproduce the documents.

23.0 DEFAULT

- 23.1 The occurrence of any of the following shall constitute an "Event of Default":
- 23.1.1 Contractor files a petition in bankruptcy, or if its creditors file an involuntary petition in bankruptcy, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency.
- 23.1.2 Contractor (a) fails to maintain the schedule set forth in the Contract, or (b) fails to promptly pay Subcontractors for material or labor, or (c) commits repeated or substantial violations of laws, rules, regulations or policies, or (d) fails to perform in accordance with the Contract, and Contractor fails to take corrective action or submit an acceptable plan within two (2) Business Days after the receipt of a notice of non-conformance from Owner.
- 23.2 Upon an Event of Default, Owner may take any or all of the following actions without affecting the Contract Price or schedule:
- (a) Owner may direct Contractor to cease performance on all or part of the Contract until satisfactory corrective action has been taken;
 - (b) Owner may have others take corrective action necessary to achieve compliance with the Contract. Owner may deduct the cost of such corrective action by others from any monies due to Contractor. Corrective action by others shall be taken when, in the judgment of Owner, the noncompliance threatens safety, unreasonably interferes with or delays the work of others, or otherwise creates a situation the resolution of which cannot be delayed without adversely impacting quality, cost or timely completion;
 - (c) Owner may pursue damages for delay under the terms of Article 24.0;

(d) Owner may suspend the Contract under Article 26.0; and/or

(d) Owner may terminate the Contract under the terms of Section 27.1

23.3 Each of Owner's rights set forth above shall be cumulative and additional to any other rights or remedies provide in law or equity or otherwise.

24.0 DAMAGES FOR DELAY

24.1 Contractor shall be liable for any direct damages incurred by Owner arising out of Contractor's failure to perform on time.

24.2 In lieu of Section 24.1, if the parties have agreed to liquidate the amount of direct damages resulting from Contractor's delay, the parties agree that such damages which might be incurred by Owner as a result of Contractor's delay in performance are uncertain and would be difficult to calculate. The parties agree that the liquidated damages contained in the Contract would be reasonable and fair compensation for late performance. Contractor commits to pay and Owner agrees to accept such sum as liquidated damages and not as a penalty in the event of late performance.

25.0 FORCE MAJEURE

25.1 Neither party shall be in breach of the Contract to the extent that any delay or default in performance is due to a Force Majeure Event. The term, "Force Majeure Event", shall mean any cause beyond the reasonable control of the delayed or defaulting party, including, but not limited to, acts of God including unusually adverse weather, fire, and epidemic; acts of public enemy including war, acts of terrorism, riot, and civil disturbance; and national labor strikes, which by exercise of due foresight such party could not have been expected to avoid or overcome. Contractor's inability to obtain adequate and sufficient labor in order to maintain progress of the Work shall not constitute a Force Majeure Event. No delay in performance resulting from a Force Majeure Event shall result in any liability on the part of Owner. Notwithstanding the preceding sentence, in the event of a delay caused by any act or failure to act on the part of Owner, Contractor's sole remedy shall be as set forth in Article 12.0.

25.2 The delaying party shall immediately notify the other party of the beginning of a delaying event, and shall confirm the notice in writing within ten (10) Business Days of the beginning of the event. The notice shall contain a detailed account of the delay, including the cause of the delay, an estimate of the duration of the delay, an estimate of the delay's impact to the schedule, and the plan to mitigate the effects of the delay.

25.3 If Contractor is the delaying party, and the delay is a Force Majeure Event as defined in Section 25.1, Owner shall grant Contractor an extension of the time for performance, to be mutually agreed upon by Contractor and Owner. The extension of time granted as a result of a Force Majeure Event shall in no case exceed the length of the delay and such extension may be withheld or reduced to the extent Contractor does not provide notice in accordance with Section 25.2. If Owner so requests, Contractor shall expedite its schedule to mitigate the effects of the excusable delay. Owner shall pay incremental, Direct Costs incurred by Contractor for expediting at Owner's request.

26.0 SUSPENSION

26.1 Owner may at any time suspend all or any part of the Work. Owner shall provide Contractor written notice verifying the suspension date. Immediately upon receipt of the suspension notice, Contractor shall take the necessary actions to comply with the suspension notice.

- 26.2 Owner shall pay Contractor in accordance with the terms of payment set forth in the Contract for the Work completed prior to the time of suspension and for the incremental, Direct Costs that result from Contractor's compliance with the suspension notice.
- 26.3 Owner may, at any time during the suspension period, either terminate the Contract in accordance with Section 27.2, or authorize the Work or any portion thereof to be restarted. Owner shall pay Contractor the incremental, Direct Costs associated with the restart of the Work and shall resume payments to Contractor in accordance with the terms of payment under the Contract thirty (30) days after the restart of Work.
- 26.4 The schedule shall be adjusted to provide for a reasonable extension of time for Contractor's performance.

27.0 TERMINATION

27.1 Termination for Cause

- 27.1.1 Upon an Event of Default, Owner may terminate the Contract upon written notice to Contractor.
- 27.1.2 In the event of such termination, Contractor shall immediately prepare and submit to Owner an itemization of the Work completed by Contractor. Owner may require Contractor to leave the Site. Owner may take over such Work and complete it, or have the Work completed by others. Owner may take possession of and utilize in completing the Work Contractor's materials, Equipment to be installed, supplies, tools and equipment at the Site.
- 27.1.3 Contractor shall not be entitled to further payment until all of the Work is completed in its entirety and Final Acceptance has been achieved. If the cost of completion exceeds the unpaid balance under the Contract, Contractor shall pay the difference to Owner within thirty (30) calendar days of demand.
- 27.1.4 In the event that a court determines that the termination was not properly a termination for cause, pursuant to Section 27.1.1, Contractor's remedy shall be limited to the payments permitted in accordance with Section 27.2.

27.2 Termination for Convenience

- 27.2.1 Owner may terminate the Contract, in whole or in part, for its convenience. Owner will give Contractor written notice of termination specifying the extent to which the Contract is terminated and the date, immediately or otherwise, on which termination becomes effective.
- 27.2.2 Upon termination for convenience, Contractor will comply with instructions in the notice of termination regarding delivery to Owner of all Work in progress and all completed Work, which shall become the property of Owner upon delivery.
- 27.2.3 In the event of such termination, Contractor shall receive payment, including the retained percentage, for the Work satisfactorily performed up to the time of such termination. In addition, Owner shall reimburse Contractor for incremental, Direct Costs resulting from the termination, provided that compensation was not otherwise made for such costs. Final payment shall be made upon the parties' agreement of the amount of the final invoice and Owner's receipt of an Affidavit of Completion in the

form of Exhibit 1. Owner shall not be responsible for Contractor's lost profit on the terminated portion of the Contract.

28.0 MATERIALS AND WORKMANSHIP WARRANTY

- 28.1 Beginning upon Final Acceptance and for a period of one year thereafter, or for such period as may be specified elsewhere in the Contract, Contractor warrants that (a) it will perform the Work in accordance with the accepted standards of care and competence found in the applicable profession as such standards relate to and are commonly used in the electric utility industry and (b) all Contractor furnished materials and workmanship shall be free of any and all defects and shall be in conformity with the requirements of the Contract.
- 28.2 Subject to the provisions of Section 28.3, in the event that the material or workmanship does not comply with the warranty, Contractor shall, at no cost to Owner, promptly repair or replace such nonconforming material or workmanship with as little disruption to Owner's operations as practicable. Contractor shall be responsible for the total cost of correcting any defects, including but not limited to, the costs of materials, labor, any necessary equipment removal, disassembly, shipping, reinstallation and retesting of the installation. Owner shall give Contractor notice of observed defects with reasonable promptness. If nonconforming material or workmanship causes an outage or other delay of operations, Contractor shall make the repair or replacement on an overtime, maximum effort basis, at Contractor's expense.
- 28.3 If Owner directs Contractor to repair or replace any defect and Contractor fails to do so within a reasonable time, or if an emergency exists rendering it impracticable for Contractor to perform the repair or replacement, Owner may make or cause to be made such repair or replacement without affecting the validity of the warranty. Owner's cost for making the repair or replacement shall be deducted from the Contract Price or any unpaid portion thereof. If the unpaid portion of the Contract Price is insufficient to cover such cost, Contractor shall reimburse Owner.
- 28.4 Owner will not pay for any defective portion of the materials or workmanship until remedied by Contractor at Contractor's expense in accordance with the Contract requirements.
- 28.5 Owner must approve any proposed correction or alteration by Contractor of the materials or workmanship, or parts thereof, made at any time or at any location, before such correction or alteration is undertaken. Approval by Owner shall not relieve Contractor from responsibility for complying with the requirements of the Contract and all applicable codes.
- 28.6 Any materials or workmanship which are repaired or replaced pursuant to this Article 28.0 shall be warranted for a period of one year from the date of completion and acceptance of such repair or replacement, or for the remainder of the original warranty period, whichever is longer.
- 28.7 Contractor shall obtain, for the benefit of Owner, all available warranties from Subcontractors, vendors and suppliers of Contractor. Such warranties shall be in addition to the warranties set forth in this Article. If such warranties are in written form, Contractor shall provide Owner with the original warranties.

29.0 REPORTING OF COMPLAINTS

- 29.1 Contractor shall immediately report to Owner, in accordance with Article 33.0, the complete details of all complaints, including any OSHA violations and complaints received from governmental authorities, Subcontractors, laborers, other third parties or members of the public relating to the Work.

30.0 RETENTION AND EXAMINATION OF INFORMATION, BOOKS AND RECORDS

- 30.1 Owner reserves the right to audit records necessary to permit evaluation and verification of (i) claims submitted, (ii) Change Orders, and related overhead and general and administrative costs, and (iii) Contractor's compliance, in the performance of the Contract and its dealings with Owner, with (a) the Contract requirements; and (b) Owner's Code of Business Conduct governing business ethics. Owner's right to audit shall not extend to fixed, lump-sum or unit pricing.
- 30.2 Contractor shall cooperate with Owner and provide Owner with information and records ("information") pertaining to the Work as requested by governmental agencies, Owner, or courts of law.
- 30.3 Contractor shall retain for a period of three (3) years after Contract termination or expiration all information relating to the Work. Owner may audit and copy such information at Contractor's premises during regular business hours. If requested by Owner, Contractor shall submit to Owner a copy of each of its subcontracts. Contractor shall include in its subcontracts a provision granting Owner the rights against Subcontractors contained in this Article 30.0.

31.0 COMPLIANCE WITH LAWS

- 31.1 Contractor warrants that all materials and equipment supplied and all Work performed will comply with, and be manufactured, priced, sold and labeled in compliance with, all applicable federal, state and local laws, rules, regulations, orders and ordinances, including, without limitation, environmental protection, energy, safety and health, and labor laws and regulations and applicable industry codes and standards.
- 31.2 Unless exempted, **Contractor shall abide by the requirements of 41 C.F.R. § 60-1.4(a)(7), 41 C.F.R. § 60-300.5(a), and 41 C.F.R. § 60-741.5(a). These regulations prohibit discrimination against minorities, females, qualified protected veterans, and qualified individuals on the basis of disability and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment minorities, females, qualified protected veterans, and qualified individuals with disabilities.** Contractor represents that it does not, and shall not for the term of the Contract, provide or maintain for its employees facilities that are segregated on the basis of race, color, religion, sex, national origin, veteran status or disability status. Contractor represents that it will not assign its employees to perform any work related to the Contract at a location where facilities are segregated on the basis of race, color, religion, sex, national origin, veteran status or disability status. Contractor agrees that it will not enter into any agreement to obtain goods or services relating to the Contract with any entity that provides, maintains or assigns its employees to work at locations where facilities are segregated on the basis of race, color, religion, sex or national origin. As used herein, "facility" means waiting rooms; work areas; restaurants and other eating areas; time clocks; locker rooms and other storage or sleeping areas, except as necessary to ensure privacy between male and female employees; parking lots, drinking fountains; recreation or entertainment areas; and transportation. If not otherwise exempted by Title 48 and to the extent applicable, Contractor will comply with 48 CFR §52.219-8, Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns, and 48 CFR §52.219-9, Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan. If not otherwise exempted by 41 CFR §60-1.5, Contractor represents that it will file all reports or other required information specified in 41 CFR §60-1.7. Contractor shall also abide by the requirements of 29 CFR Part 471, Appendix A to Subpart A, which is incorporated by reference, as applicable.
- 31.3 Contractor shall indemnify and save Owner harmless from any and all costs or expenses arising out of any violations of such laws, ordinances and regulations.

32.0 PERMITS AND LICENSES

- 32.1 Contractor shall obtain all permits and licenses required by any regulatory authority for the performance of any portion of the Work, except that Owner shall obtain permits and licenses for all structures which are to become a permanent part of the Site. Before starting Work, Contractor shall submit to Owner a copy of all permits and licenses required by any such regulatory authority.
- 32.2 Contractor shall indemnify and save Owner harmless from any and all costs or expenses arising out of the failure of Contractor to obtain such permits and licenses.

33.0 NOTICES

- 33.1 Each party shall designate in writing a representative to receive any and all notices required under the Contract. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, facsimile, e-mail or any similar means, properly addressed to such representative. All notices shall be effective upon receipt, or upon such later date following receipt as set forth in the notice. Either party may, by written notice to the other, change the representative or the address to which such notices are to be sent. Contract shall be strictly construed and Contractor expressly waives any claims which do not strictly comply with the written notice requirements of the Contract.

34.0 SEVERABILITY

- 34.1 In the event that any of the provisions, or portions thereof, of the Contract are held to be unenforceable or invalid by any court, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

35.0 WAIVER

- 35.1 Either party's waiver of any breach of the Contract shall not be deemed to be a waiver of any other breach of the same or a different term of the Contract. Contractor agrees not to claim any waiver by Owner of such notice requirements based upon Owner's conduct or Owner having actual, verbal, implied, or constructive notice.

36.0 NON-DISCLOSURE

- 36.1 Except as required by law, regulation, or judicial or administrative order, neither party shall disclose the terms of the Contract without the consent of the other party. Notwithstanding the foregoing, Owner may disclose the terms of the Contract without the consent of Contractor (a) to any of its affiliated companies (including any joint ventures of which Owner or any of its affiliates are a member and the other members of such joint ventures); and (b) to any prospective transferee or purchaser of assets of Owner or any of affiliates.

37.0 HEADINGS

- 37.1 Headings are provided for the convenience of the parties, and shall not affect the interpretation of any provision.

38.0 AFFILIATED COMPANIES

- 38.1 Any indemnification of Owner or any limitation of Owner's or Contractor's liability under the Contract shall to the same extent apply to Owner's or Contractor's directors, officers, employees, agents, and affiliated companies (including any joint ventures of which Owner or any of its affiliates are a member and the other members of such joint ventures), including any directors, officers, employees and agents thereof.
- 38.2 The affiliated companies (including any joint ventures of which Owner or any of its affiliates are a member and the other members of such joint ventures) of the American Electric Power System are severally and not jointly liable for obligations arising hereunder.

39.0 APPLICABLE LAWS AND JURISDICTION

- 39.1 Except for Article 17.0, the rights and obligations of the parties arising out of the Contract shall be governed in all respects by the laws of the State of Ohio. Any reference herein to the laws of other states is made only to the extent that the laws of that state might apply, notwithstanding the intent of the parties that the laws of the State of Ohio should apply.
- 39.2 Contractor agrees that all actions and proceedings brought by Owner against Contractor may be litigated in courts located in the State of Ohio or the state where the work was performed. Contractor agrees that such courts are convenient forums and irrevocably submits to the personal jurisdiction of such courts. Contractor waives personal service of process and consents to service of process by certified or registered mail at the address designated for receiving notices under the Contract.

40.0 ENTIRE AGREEMENT

- 40.1 The Contract constitutes the entire agreement between the parties and supersedes all previous and collateral agreements or understandings with respect to the subject matter of the Contract. No waiver, alteration, amendment or modification of any of the provisions of the Contract shall be binding unless in writing and signed by duly authorized representatives of the parties.

41.0 BINDING EFFECT; NO THIRD-PARTY BENEFICIARIES

- 41.1 Subject to the restrictions on assignment in Section 5.1, the Contract shall be binding upon and shall inure to the benefit of the parties of their respective successors and permitted assigns.
- 41.2 No provision of the Contract is intended or shall be construed to be for the benefit of third party other than as set forth in Article 36.0.

42.0 EXECUTION; COUNTERPARTS; ELECTRONIC SIGNATURES

- 42.1 The Contract shall not be binding or effective until properly executed by each of the parties hereto. The Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute but one and the same Contract, which may be sufficiently evidenced by one counterpart.
- 42.2 Each party agrees that any electronic signatures, whether digital or encrypted, of the parties included in this Contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record.

43.0 SURVIVAL

- 43.1 All of the terms of the Contract which by their nature extend beyond the expiration or termination of the Contract, including indemnification obligations, confidentiality obligations, limitations of liability, shall survive expiration or termination of the Contract and remain in full force and effect.

END OF DOCUMENT

AFFIDAVIT OF COMPLETION

State of _____

County of _____

_____, being duly sworn, states that:
(Name of Affiant)

1. S/He is the _____ of
(Office held by Affiant)

(Legal Name of Contractor) (Contractor)

that has a contract with _____
(Legal Name of Owner)

(Owner) dated _____ (Owner's Contract No. _____)
(Contract Date) (Contract No.)

involving work on the Owner's property at _____
(Project Name)

located near _____
(City, State)

2. All of the Work required to be performed by the Contractor under said Contract has been performed. All bills and claims for material, labor and services to employees, Subcontractors, material suppliers, and others, covering the Work required to be performed under the Contract, have been paid in full by the Contractor. There are no unpaid amounts on the basis of which a lien has been filed, or can be filed, in connection with the Work performed under the Contract.

Signature of Affiant

Sworn to before me and subscribed in my presence this _____ day of _____, _____.

Notary

EXHIBIT B

Security Supplement

A. Risk Management

Contractor shall create and maintain a continuous process for IT and infrastructure risk management to identify, quantify and prioritize risks against defined risk acceptance levels and objectives relevant to the organization.

A.1 IT & Infrastructure Risk Governance

Contractor's risk management program should include a formal program, which documents the organization's assets and threats and evaluates associated risks.

A.2 IT & Infrastructure Risk Assessment Lifecycle

Contractor's risk management program should move beyond detailing the threats, vulnerabilities and assets to where it examines and evaluates risk within the context of the overall workings of the business and its environment. CLEAResult is currently planning a risk management program. It is scheduled to begin in Q1 2015 with a target of completion of Q2 2015.

B. Information Security Policy

Contractor should provide management direction and support for information security in accordance with business requirements and relevant laws and regulations. They shall set a clear policy direction in line with business objectives and demonstrate support for, and commitment to, information security through the issue, acceptance and maintenance of an information security policy across the organization.

B.1 Information Security Policy Content and Maintenance

Contractor should establish a strong security policy that sets the security tone for the whole company and is reviewed at planned intervals (at least annually) to ensure continued suitability, adequacy and effectiveness. This security program should incorporate the key areas of security.

B.2 Employee Acknowledgement of Acceptable Use

Contractor's acceptable use of information and assets should be identified, documented, and implemented. Additionally, employees of the organization should signify acceptance of the policy at least annually.

C. Organization of Information Security

Contractor should establish a management framework to control and manage the information security organization. This should include the protection of organizational information through the use of employee confidentiality agreements and the addition of

clauses in dependent service provider contracts or agreements.

C.1 Employee acceptance of Confidentiality

Contractor shall communicate, get acknowledgement from, and periodically review employees' responsibility to protect confidential information.

C.2 Dependent Service Provider Agreements

Contractor shall ensure that all agreements or contracts with the dependent service provider contain specific clauses to ensure target data is protected when accessed, processed or stored by a dependent service provider.

C.3 Security Organization Roles/Responsibilities

Contractor should define, document and maintain well-constructed organization-wide information security roles and responsibilities.

C.4 Security Organization Reporting and Hierarchy Compliance

Contractor should ensure that the organizational-wide hierarchy is established and maintained in compliance with the internal roles and responsibilities document.

D. Asset Management

Contractor should document and maintain a detailed list of hardware and software assets. These assets should include an organizational owner who is responsible for these assets.

D.1 Asset Accounting and Inventory

Contractor should ensure assets are clearly identified and an inventory of all assets is thoroughly documented and maintained.

D.2 Asset Destruction

Contractor shall ensure that effective processes and procedures are in place for the destruction of media and assets.

E. Human Resource Security

Contractor shall establish a formal security awareness program that makes all employees aware of security best practices, and should require that they attend formal security training at least once annually to ensure that they are aware of the latest policies and security threats.

E.1 Security Awareness Training Attendance

Contractor should provide security awareness training at least annually and maintain employee attendance reports.

E.2 Security Awareness Training Maintenance

Contractor should review the contents of the security awareness training program at least annually to ensure it is updated and contains recent, relevant security information.

E.3 Background Investigation Policy Content

Contractor should establish a strong background investigation policy that includes which background verification checks should be carried out in accordance with industry best practices and relevant laws and international restrictions.

E.3.1 Background checks should include the following;

E.3.1.1 determination of whether an individual has been convicted of a felony crime in each state where the individual has resided during the past seven years;

E.3.1.2 performance of the background investigation at the state level (in other words, to only search the records of the county in which the individual has resided during the past seven years is not a sufficient background investigation);

E.3.2 If it is determined by AEP management that an individual requires unescorted access to Owner's Critical Cyber Assets (as defined by NERC CIP), Owner will conduct its own background investigation, which will include Social Security Number verification. Additional specific provisions or requirements related to any Owner conducted background investigation pursuant to this Article will be communicated to Contractor prior to implementation of such background investigation.

F. Physical and Environmental Security

Contractor shall take appropriate steps to prevent unauthorized physical access, as well as accidental and intentional damage to the organizations' physical premises, systems and information. Organizations should also take appropriate steps to protect against environmental and systems malfunctions or failures.

F.1 Environmental Controls - Computing Hardware

Contractor should ensure that critical supporting utilities, such as climate control, fire suppressants and backup power supplies needed to support the business are in place.

F.2 Physical Security Controls - Target Data

Contractor shall ensure that physical access to data or systems is appropriately restricted by layered security controls and that only authorized personnel are allowed access to restricted areas.

F.3 Secure Workspace Security Program

Contractor should ensure that protecting the secure workspace environment is part of the security and risk management program.

F.4 Secure Workspace Perimeter

Contractor should control ingress and egress into the secure workspace. The level of controls should be commensurate with the level of risk.

F.5 Secure Workspace Access Reporting

Contractor should maintain access and incident reports.

F.6 Secure Workspace Compliance Audit

Contractor should complete periodic compliance audits of the secure workspace desktop environment.

G. Communications and Operations Management

Contractor shall maintain documented operating procedures and technological controls to ensure the effective management, operation, integrity and security of their information systems and data.

G.1 Network Security – IDS/IPS Signature Updates

Contractor shall ensure that IDS/IPS systems have the latest signatures applied in order to effectively monitor for the most recent threats and vulnerabilities.

G.2 Network Security – Firewall(s)

Networks shall be segregated to ensure systems and applications are protected from threats outside of their connected network. This shall include utilizing firewalls to segment and protect the organization's internal network from the Internet, and also from other less restricted internal networks.

G.3 Network Security – IDS/IPS Attribute

Contractor shall ensure that IDS/IPS systems have been deployed, that the alerts contain sufficient information to evaluate a potential incident, and that they are generating active alerts.

G.4 Network Management – Encrypted Authentication Credentials

Contractor shall protect credentials as they travel throughout the network. To prevent possible exposure of credentials, an organization should ensure that

network devices have encryption enabled for network authentication.

G.5 Externally Facing Open Administrative Ports

Contractor shall manage open ports accessible from the Internet that are not specifically required for business functionality. These should be disabled or removed to decrease the likelihood of being exploited. This is particularly relevant for administrative ports that can be used to remotely manage a system.

G.6 Network Logging

Contractor shall comply with relevant security best practices for the monitoring and logging activities of its networks, and shall ensure that appropriate logging and monitoring are applied to enable recording of relevant actions.

G.6.1 Information collected shall include at a minimum:

G.6.1.1 Date/Time of activity

G.6.1.2 Type of activity

G.6.1.3 Identity used to perform activity

G.6.2 Activities which should be logged include:

G.6.2.1 Logon/Logoff

G.6.2.2 Administrator access

G.6.2.3 Information deletion

G.6.2.4 Information modification

G.6.2.5 Information input

G.6.2.6 System failures

G.6.2.7 System restarts

G.6.2.8 Log deletion

G.6.2.9 Log modification (by source other than system)

G.6.2.10 Change of privilege

G.6.2.11 Account creation/deletion

G.6.3 Logs should be reviewed by an automated system which allows for alerting when unauthorized or unlawful activities are identified.

G.7 Virus Protection (Servers)

Contractor shall ensure virus protection software is deployed on target servers, and that these have the latest signatures applied.

G.8 Virus Protection (Workstations)

Contractor shall ensure virus protection software is deployed on workstations which access target systems, and that these have the latest signatures applied.

G.9 Administrative Activity Logging

Contractor shall comply with all relevant security requirements applicable to its monitoring and logging activities, and should ensure that appropriate logging and monitoring is in place to capture administrative activity for accountability and audit purposes.

G.9.1 Information collected shall include at a minimum:

G.9.1.1 Date/Time of activity

G.9.1.2 Type of activity

G.9.1.3 Identity used to perform activity

G.9.2 Logs shall be reviewed by an automated system which allows for alerting when unauthorized or unlawful activities are identified.

G.10 Log-on Activity Logging

Contractor shall ensure that log-on attempts are captured and stored for accountability and audits requirements.

G.10.1 Information collected shall include at a minimum:

G.10.1.1 Date/Time of activity

G.10.1.2 Successful and failed login attempts

G.10.1.3 Identity used to perform activity

G.10.2 Logs should be reviewed by an automated system which allows for alerting when unauthorized or unlawful activities are identified.

G.11 Log Retention

Contractor should ensure that system and network logs are retained for a sufficient period of time to allow for the successful auditing of historical events, to meet legal requirements and also if needed for forensic purposes.

G.12 Website Privacy Policy

Contractor shall have a Privacy Policy developed, published, and clearly communicated. This policy should be accessible to all end users who access the Contractor's Internet-facing end-user websites that have access to target data.

G.13 Website – Client encryption

Contractor shall ensure that sensitive information sent through online transactions remains confidential and protected from unauthorized disclosure as well as message alteration while in transit through the Internet.

G.14 Email Relaying

Contractor should ensure that sufficient steps are taken to secure privileged access and prevent misuse of the company's email resources.

G.15 Physical Media Tracking

Contractor shall ensure that effective processes and procedures are in place for the destruction of media. Processes and procedures should be in place for the handling, storage and transport of external media to protect target data from unauthorized access and/or disclosure.

G.15.1 All storage media and hardware used to fulfill the requirements of this service shall be sanitized minimally, in accordance with NIST SP 800-88 immediately upon removal from service unless otherwise directed by Owner.

G.16 Security of Media in Transit

Contractor shall have processes and procedures in place for the transport of media to protect the information from unauthorized access and/or disclosure.

G.17 Unapproved Wireless Networks

Contractor should have all network connections and devices adequately tracked, managed and controlled to protect against threats and to maintain security for the systems and applications using the network.

G.18 Wireless Networks Encryption

Contractor shall ensure that wireless encryption for authorized wireless access points is implemented to protect from threats, and to maintain security for the systems and applications using the network.

G.19 Network Security – Authorized Network Traffic

Contractor should ensure strong rules are implemented by ensuring that each network service that is permitted has been formally approved and authorized.

G.20 Backup Media Restoration

Contractor should have systems, applications and data available in the event of a disaster. Backups of these systems and data should be available, and they should contain valid information.

G.21 Change Control

Contractor should ensure that changes are made within a formal change control program.

G.22 Data Security Policy - Encryption

Contractor shall establish a strong data security policy that sets the security tone for the whole company. This security program should ensure that sensitive information remains confidential and protected from unauthorized disclosure as well as message alteration.

G.23 Information Use and Disposal

Contractor shall only use information provided to them for fulfillment the requirements of the Contract.

G.23.1 Contractor shall claim no rights to use, retain, or otherwise assert ownership of information provided to them beyond what is specified in the Contract. **Unless otherwise specifically authorized by Owner, all Owner data will be deleted upon contract completion**

G.23.2 Contractor shall not sell, rent, or disclose the information further to other third parties or contracted agents without written permission from Information Owner.

G.23.3 Contractor shall provide written attestation that all information provided to them for the purpose of fulfilling the Contract is destroyed upon completion of the contract or it is determined that it no longer has value to the fulfillment of the Contract, unless otherwise specified.

G.24 Contractor shall make no attempt to specifically identify any person or business from anonymized data provided to them.

G.25 Advanced Persistent Threats (APT) Protection.

Contractor must protect all assets utilized in providing the contracted services from Advanced Persistent Threats (APT) from both internal and external attacks. This shall include protections against:

G.25.1 Internet-based malware infection

G.25.2 Physical malware infection

G.25.3 External exploitation

H. Access Control

Contractor shall ensure sufficient control over access to information, including controlled access to target data and information processing systems and facilities. These controls should be based on security and business requirements, and should follow both industry best practices and internal policies.

H.1 Password Controls

Contractor shall ensure that its password controls meet industry best practices and follow internal policies.

H.1.1 Each entity, whether human or non-human, accessing the service should have a unique identity with at a minimum a complex password or passcode.

H.1.2 The password or passcode should be of a length of 8 or more characters and must include at least three of the following items:

H.1.2.1 Upper Case Letter

H.1.2.2 Lower Case Letter

H.1.2.3 Number

H.1.2.4 Special Character

H.1.3 All passwords or passcodes should have an expiration period, not to exceed 90 days and may not be reused upon expiration for a minimum of one year or 13 changes. The password or passcode cannot be the same as the user identity.

H.2 Revoke System Access

Contractor should review and revoke user access rights from all systems upon constituent termination. Formal procedures should be in place to manage the controlled revocation of logical access rights to an organization's systems.

H.3 Logical Access Authorization

Contractor shall ensure that a formal user registration and approval procedure to which employees consistently adhere is in place for granting access to all systems. Formal procedures should be in place to control the allocation of logical access rights to systems.

H.4 Inactive Accounts

Contractor shall ensure that only active users who actually require access at the present time have system access. Management should review and revoke or disable user logical access rights of inactive constituents at regular, predefined intervals.

H.5 Controls for Unattended Systems

Contractor should ensure that sufficient preventative controls such as screen or session timeouts are in place to prevent unauthorized logon access to unattended systems.

H.6 Physical Access Authorization

Contractor should ensure that a formal user registration and approval procedure to which employees consistently adhere is in place for granting access to all information processing facilities. Formal procedures should be in place to control the allocation of physical access rights to the organization's facilities.

H.7 Multifactor Authentication for Remote Access

Contractor should utilize multifactor authentication to provide an additional level of security for staff with remote access to high-risk systems, including systems that store target data. No multi-factor authentication is used at this time.

I. Information Systems Acquisition, Development and Maintenance

Contractor shall utilize a comprehensive application security program to help ensure that external high-risk applications are consistent with industry security requirements. This should include full application compliance testing and software development reviews.

I.1 Application Vulnerability Assessments/Ethical Hacking

Contractor should perform application penetration tests or ethical hacking of proprietary web facing applications. Industry standards such as OWASP should be utilized as a foundation for detecting vulnerabilities in the applications, and measuring the effectiveness of the application security controls in place.

I.1.1 Vulnerability Assessment. Contractor should provide any vulnerability assessment results revealing medium or higher rated vulnerabilities in accordance with industry accepted vulnerability rating services, obtained during the product development process, that have not been or will not be remediated within 30 calendar days for Medium rated vulnerabilities or 14 calendar days for High or Critical rated vulnerabilities.

I.1.2 Ethical Hacking. Owner reserves the right to request a penetration test of all application and hardware components and configurations as Owner deems reasonably necessary, not more than once per annum. A mutually agreed upon third party consultant shall conduct the testing and all results revealing Medium or higher rated vulnerabilities in accordance with industry accepted vulnerability rating services will be shared with Owner directly by the consultant. Contractor shall not unreasonably reject a consultant proposed by Owner. CR will contract with a contractor of CR choosing to perform penetration testing and application testing at least annually. Due to the number of clients it is impossible to allow clients into the selection process. CR's team of security professionals has a strong background with test of this nature and will ensure that a competent firm is engaged to perform these tests.

I.1.2.1 Results of any test conducted by the provider on their initiative and expense, if reasonably related to the services provided by Contractor to Owner should be shared with Owner when the results reveal Medium or higher rated vulnerabilities in accordance with industry accepted vulnerability rating services. CR will evaluate the tests and provide summary level information to AEP if it is deemed to affect AEP or its customers.

I.1.3 Tracking Security Issues. Contractor shall track all security issues uncovered during the entire solution development lifecycle, whether a requirement, design, implementation, testing, deployment, or operational issue. The risk associated with each security issue should be evaluated, documented, and reported to Owner as soon as possible after discovery. CR will track internally to resolution any security issues. Any issues that would have a direct effect upon AEP and/or its customers would be reported within 30 calendar days for Medium rated vulnerabilities or 14 calendar days for High or Critical rated vulnerabilities..

I.1.4 Reporting of Remediation Activities. Remediation activities for all issues identified during any phase of testing should be tracked and reported to Owner as soon as reasonably possible after they have been completed or identified. If action by the Owner is necessary, documentation shall be provided giving specific guidance on implementation of remediation(s) and any potential impact on other

related products or services that were identified during testing efforts.

I.2 Secure Systems Development Lifecycle (SDLC) Code Review

Contractor's Systems Development Life Cycle (SDLC) shall include security best practices within the key development phases of the code. This should include code reviews using industry standards.

I.3 Secure System Hardening Systems

Contractor should ensure that a formal, documented configuration standard exists for building and managing target systems. This should include key configuration and hardening requirements in accordance with industry security best practices, to reduce the risk of compromise.

I.4 Systems 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 should also include weighing the benefit associated with installing a patch to resolve vulnerability against other factors, including the potential impact to system stability.

I.5 Application Security Program Governance

Contractor shall manage the application development activities, methodologies and application security risk. Application security should be part of an organization's overall risk governance framework.

I.6 Application Security Vulnerability Assessment and Remediation

Contractor shall ensure that application security vulnerabilities are assessed for business risk and impact, and have a vulnerability remediation plan.

I.7 Application Security SDLC Phases

Contractor shall ensure that security requirements are part of the key phases of their internal SDLC program. This process should ensure that security reviews, security scans and security signoff occurs at applicable phases.

I.8 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 target data.

I.9 Application Security Awareness Training Content

Contractor shall ensure that the content of its application security program incorporates current and relevant security attacks and vulnerabilities mitigation, and that the course content is applicable to the organization and its environment

I.10 Application Security Awareness Training Content and Certification

Contractor should ensure that its software developers are aware of application security and secure coding best practices, that they attend a formal application security training program at least annually and that they pass an application security exam upon course completion.

J. Information Security Incident Management

Contractor should have incident response programs that include formal event reporting and escalation procedures that should be clearly communicated throughout the organizations, and should include the active participation of incident response members with clearly defined roles and responsibilities.

J.1 Information Security Incident Management Policy & Procedures Content

Contractor should establish a formal information security event reporting procedure, together with an incident response and escalation procedure to be executed in the event of a potential incident.

J.1.1 Any probable or confirmed compromise, unauthorized disclosure, exposure or loss of Owner information must be reported to Owner within 24 hours of Contractor's awareness of the event. Notification shall include the nature of the event, date and time of the event, suspected amount of information exposed and steps being taken to investigate the circumstances of the exposure. Upon completion of the investigation Contractor shall provide Owner with all details of the investigation and final disposition of the incident.

K. Business Continuity Management

Contractor should incorporate business continuity considerations into the overall design of their business model to mitigate the risk of service disruptions and the impacts of those within the supply chain. This should include an enterprise-wide, process-oriented approach that considers technology, business operations, testing, and communication strategies that are critical to business continuity planning for the entire business.

K.1 Business Impact Analysis

Contractor should conduct an assessment and prioritize all business functions and processes, including their interdependencies, as part of a workflow analysis. This assessment should also evaluate the potential impact of business disruptions

resulting from uncontrolled, non-specific events on the organization's business functions and processes.

K.2 Threat Assessment

Contractor should create and maintain an in-depth business threat assessment that includes realistic threat scenarios such as malicious activity, natural and technical disasters, and pandemic incidents. The magnitude of the business disruption should consider a wide variety of threat scenarios, including capacity.

K.3 Business Continuity Governance

Contractor should create and maintain an in-depth business continuity governance plan that documents the program details, the decision making and communication process, and defines who is responsible for which components of governance.

K.4 Business Process Level Readiness

Contractor should create and conduct business continuity planning and analysis to be able to evaluate the business continuity readiness of end-to-end business processes.

K.5 Business Continuity Threat Assessment

Contractor should create and maintain realistic threat scenarios which consider internal, business partners, and customers. These threat scenarios should focus both on the impact of the threat as well as the nature of the threat.

K.6 Business Continuity Process Testing

Contractor should create and maintain detailed business continuity test plans. These should include scoping the business process and identifying the dependencies, as well as detailed testing to complete a realistic and thorough test.

L. Compliance

Contractor should ensure compliance of information systems with the organizational security policies, and standards to include regularly checking systems against compliance with security implementation standards and regulatory requirements.

L.1 Presence of Log-On Banners

Contractor should ensure that at log-on all users accessing target systems are made explicitly aware of the company's legal and internal terms of use. This should include a message indicating the rights and restrictions that apply.

L.2 Technical Compliance Checking – Vulnerability Testing and Remediation

Contractor shall ensure that external facing systems are regularly scanned for

compliance against industry security standards including SANS 20, and that any applicable detected vulnerabilities are remediated.

L.2.1 Contractor agrees that they will use commercially reasonable efforts to identify and notify Owner in writing of any vulnerabilities, risks and threats that impact the solution within seven (7) working days of identification and provide guidance as to how the patches or remediations are to be deployed.

L.2.1.1 Notifications shall include detailed information regarding operating system patches that may impact the solution.

L.2.1.2 These requirements shall be in effect for the duration of the usable life of the solution at no additional cost to Owner.

L.2.1.3 Contractor shall provide a remediation timeline for all vulnerabilities to be reviewed by and agreed upon by Owner.

M. Fourth Party Management

The Contractor should have a documented policy and procedure as part of their overall information security policy to manage and assess risk of their own third party subcontractors. This should include processes that encompass risk assessment, onboarding, termination and regular assessment of the third party. CLEARResult does not have a formal vendor management process. An informal process is used to evaluate subcontractors. Due diligence is practiced in vendor selection. Subcontractors that may have access to client data are required to sign the CR Acceptable Use Policy and an NDA. Formal policy and process will be developed in 2015.

M.1 Subcontractor Selection and Management Process

The Contractor should have a subcontractor selection and management process in place.

M.2 Subcontractor Contracting Process

Contractor shall have contracts in place with all subcontractors who store, process, manage or access Owner data.

M.2.1 Contractor shall not contract with a third-party for any aspect of the provision of this service without full disclosure to and authorization of Owner.

M.2.2 Contractor shall require all Third party contractors and subcontractors that will be employed by Contractor to abide by the terms and conditions contained in the Contract and this Supplement.

M.3 Documenting Information Security Assessments for Subcontractors

Contractor should have a documented process in place to address information security assessments and risk as it relates to third party contractors. Risk assessments for new subcontractors are completed on an informal basis. This process will be formalized in 2015.

M.4 Calculation of Subcontractor Information Security Risk

Contractor should have a method for calculating information security risk as it relates to subcontractors. See M.3

M.5 Information Security Review Process – Tracking and Risk Rating

Contractor should track open issues that result from their third party subcontractor’s information security review process and assign a risk rating to issues. See M.3

N. Management of Privacy Programs

Contractor should establish a management framework to control and manage their privacy program. This should include the overall management of the privacy program within the organization and with all third parties that have access to target privacy data. The privacy program should include: individuals responsible for the creation, oversight and maintenance of the program; all third parties meeting their commitments under the organization’s business requirements, privacy applicable law, policy and industry best practices; and the protection and privacy of target privacy data through its life cycle of collection, storage, usage, sharing, transferring, securing, retention and destruction. Portions of the privacy program are completed via an informal process. This process will be formalized for 2015. An enterprise wide risk assessment is planned for 2015. Privacy data will be formally identified and assessed. Owners will be established for all privacy data. A formal privacy policy and privacy notices are in place. Privacy training is included as part of the Information Security Awareness Training. Privacy notices are included on the CR Website.

N.1 Target Privacy Data Inventory and Flows

Contractor should inventory, define by data subject category and assign ownership for target privacy data and document its flow through the data life cycle of collection, storage, use, sharing, trans-border flows, retention and retirement through the organization and its third parties.

N.2 Privacy Policy and Privacy Notices

Contractor shall provide management policy, direction and support for information privacy in accordance with privacy business requirements and privacy applicable law. It should demonstrate support for, and commitment to, information privacy through the issue, acceptance and maintenance of a privacy policy across the organization. It should, where required, communicate that commitment to data subjects via privacy notices and where applicable gain their consent and seek their permission for certain uses of target privacy data. It should ensure that third parties' privacy policies and privacy notices are consistent with its privacy policy and privacy notices. The privacy policy and privacy notices should incorporate the key areas of privacy and should be reviewed at planned intervals (at least annually), or if significant changes occur, to ensure continuing suitability, adequacy and effectiveness.

N.3 Privacy Organization and Program Maintenance

Contractor should ensure that the organization and third parties each have a designated privacy individual responsible for its privacy policy and program. The privacy program should contain enforcement and monitoring procedures and a change management procedure to remain current with privacy changes in business requirements, privacy applicable law, policy and industry best practices.

N.4 Privacy Third Party Agreements

Contractor shall ensure that all agreements with third parties contain specific clauses to ensure target privacy data is protected and that certain other privacy requirements are included.

N.5 Legal Authorizations

Contractor and its third parties shall have completed the applicable notifications, registrations, permit, approvals and/or adequacy derogations as required by privacy applicable law.

N.6 Management of Target Privacy Data

Contractor shall ensure that collection, storage, use, access, sharing, transport, retention and deletion of Client Target Privacy Data is in accordance with privacy applicable law, privacy policy, privacy notices and industry best practice, and is represented in their documented procedures, and that these procedures are maintained.

N.6.1 Contractor shall provide full disclosure of all locations (city, state and/or country) of potential data storage or processing. Owner shall have the right to prohibit their information from being stored in any location based on Owner's assessment of risk.

N.6.2 Contractor shall certify that they have complied with Owner's prohibition in writing.

N.7 Privacy Awareness

Contractor and its third parties shall ensure that privacy awareness training occurs at least annually and attendance reports for their employees are maintained.

N.8 Privacy Event Notification and Response Management

Contractor shall establish a formal privacy communication procedure, integrated with the security incident response and escalation procedure to be executed in the event of a potential breach or other required privacy communication requirement to data subjects or other entities, including government agencies.

O. Cloud Services

Unless otherwise agreed by all parties, information stored for multiple customers must be logically separated to preclude one customer from accessing another customer's information.