Exhibit A

GENERAL CONDITIONS

FOR

MAJOR PROFESSIONAL SERVICES AGREEMENT

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GENERAL CONDITIONS
FOR
MAJOR Professional services AGREEMENT

1. **DEFINITIONS AND RULES OF CONSTRUCTION**.
	1. Capitalized words, phrases and other expressions used herein that are not otherwise defined are defined in the Agreement. The capitalized words, phrases or other expressions used herein shall have the following meanings:

"**Agreement**" shall mean the Major Professional Services Agreement between the Parties hereto, and all documents and instruments thereto or arising therefrom, including the Contract Documents, (Purchase Order(s)/Work Order(s) if applicable) and these General Conditions.

"**Applicable Law**" or "**Applicable Laws**" shall mean any and all laws (including all statutory enactments and common law), ordinances, constitutions, regulations, statutes, treaties, rules, codes, standards, licenses, certificates, franchises, permits, requirements and injunctions that (i) have been adopted, enacted, implemented, promulgated, ordered, issued, entered or deemed applicable by or under the authority of any Governmental Body having jurisdiction over a specified person or entity (or the properties or assets of such person or entity), and (ii) are applicable to the Work.

"**Applicable Utility Rules**" means the rules, orders, regulations, practices, procedures and protocols established by regional transmission organizations (such as the Midcontinent Independent System Operator, Inc.), electric reliability organizations (such as the North American Electric Reliability Corporation and the Midwest Reliability Organization) and comparable Persons that are applicable to the Project and/or its operation by force of Applicable Law or Good Utility Practice.

"**Change Order**" shall mean a document issued by Owners and agreed to in writing by Consultant to amend the Agreement and/or the Purchase Order/Work Order.

"**Claim**" or "**Claims**" shall have the meaning set forth in Section 27.1 of these General Conditions.

"**Consultant**" shall mean the "**Consultant**" as set forth in the Agreement.

"**Data Laws**" shall have the meaning set forth in Section 34.3 of these General Conditions.

"**Design(s)**" shall have the meaning set forth in Section 28.1 of these General Conditions.

"**Documents**" shall have the meaning set forth in Section 6.1 of these General Conditions.

"**Drawings**" shall mean all (i) drawings or supplementary drawings furnished by Owners as a basis for soliciting proposals, (ii) drawings, if any, submitted by Consultant with its proposal which are included in the Agreement, (iii) drawings furnished by Owners to Consultant during the progress of the Work, and (iv) engineering data and drawings submitted by Consultant, if any, during the progress of the Work, provided such drawings are acceptable to Owners.

"**Final Acceptance**" shall occur when Owners have made their reasonable commercial determination that all Work is complete in accordance with the requirements of the Agreement, including these General Conditions.

"**Force Majeure**" shall have the meaning set forth in Section 9.7 of these General Conditions.

"**General Conditions**" shall mean this document and the terms and conditions contained or referred to herein.

"**Good Utility Practice**" means any of the practices, methods or acts engaged in or approved by a significant portion of the electric utility industry in the region during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition in a manner that: (i) is consistent with Applicable Law and Applicable Utility Rules, (ii) makes due consideration for reliability, safety and protection of equipment and the Project, and (iii) is consistent with manufacturer's recommendations and warranties. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a range of acceptable practices, methods or acts generally accepted in the region.

"**Governmental Body**" shall mean any:

* + - 1. nation, state, county, city, town, village, district or other jurisdiction of any nature;
			2. federal, state, local, municipal, foreign or other government; or
			3. governmental or quasi governmental authority of any nature (including any governmental agency, branch, board, commission, department, instrumentality, office or other entity, and any court), in any such case exercising, or entitled to exercise, administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature over the Agreement, the performance of the Work or the Parties.

"**Offshore Locations**" shall have the meaning set forth in Section 33.1 of these General Conditions.

"**Offshore Personnel**" shall have the meaning set forth in Section 33.1 of these General Conditions.

"**Owner Data**" shall have the meaning set forth in Section 34.1 of these General Conditions.

"**Owner Indemnitees**" shall have the meaning set forth in Section 27.1 of these General Conditions.

"**Owners**" shall mean the name of the entity or entities set forth as the Owners in this Agreement. With respect to actions, directives or decisions of Owners, "Owners" will also mean Owners’ project manager or its designee.

"**Party**" or "**Parties**" shall mean Owners and Consultant.

"**Personal Data**" shall have the meaning set forth in Section 34.2 of these General Conditions.

"**Project**" shall mean the entirety, or a portion of, the Work being provided by Consultantand its Subcontractors under the Agreement.

"**Purchase Order/Work Order**" shall mean the specific authorizing document, including all documents attached thereto or referenced therein.

"**Sanctions**" shall have the meaning set forth in Section 4.3 of these General Conditions.

"**Site**" shall mean the location(s) of the Project, and may be defined in the Purchase Order / Work Order.

"**Subcontractor**" shall mean any person, firm, or corporation that performs work for or provides labor, equipment, supplies and/or goods to Consultant in connection with the Work.

"**Work**" shall mean the work or services Consultant has agreed to furnish pursuant to the Agreement. This may include, but is not limited to, any services, direction of services, technical information, technical consulting or other services, including but not limited to engineering services, design services, analytical services, consulting services, quality assurance, project management or any other specialized services and related work to be furnished under the Agreement.

"**Work Schedule**" shall have the meaning set forth in Section 9.2 of these General Conditions.

* 1. The Parties further agree that the following rules of construction shall apply in the interpretation of the Agreement, including these General Conditions:
		+ 1. whenever the words "as ordered," "as directed," "as required," "as permitted," "as allowed," or similar words or phrases are used in the Agreement, they shall mean that the order, direction, requirement, permission or allowance of Owners is intended only to the extent of compliance with the terms of the Agreement;
			2. whenever the expression "it is understood and agreed" or a similar expression is used in the Agreement, such expression shall mean the mutual agreement of the Parties;
			3. Reference in these General Conditions, the Agreement or any exhibit or Purchase Order/Work Order to the standards of any technical society, organization or association, or to any national, state or local codes or standards (including those of any Governmental Body), shall mean the latest standard or code adopted, as amended from time to time, unless specifically stated otherwise; and
			4. The specifications, codes, and standards referenced in the Agreement (including addenda, and amendments) shall govern in all cases where references thereto are made. In case of conflict between the referenced specifications, codes, or standards and the Agreement, the most stringent requirements shall apply to the extent of such differences except in the case where the Agreement acknowledges an exception to a referenced specification, code, or standard. In all but the latter cases, Consultant shall notify the Owners’ engineer of conflicts between referenced specifications, codes, or standards and the Agreement.
1. **AGREEMENT DOCUMENTS**.
	1. The Work shall be performed in accordance with the Agreement. Any additional terms proposed or exceptions taken by Consultant to any provision of the Agreement shall become part of the Agreement only if accepted by Owners in writing. In the event of a conflict between the Agreement and other Documents, the Agreement shall govern.
	2. Owners may scan, and preserve electronically, the Agreement and other Documents related to the Agreement. Once scanned, and electronically preserved, Owners may destroy the paper originals of these Documents, with the exception of original sealed engineering Drawings. All such Documents scanned and electronically preserved by Owners, may be treated as original Documents for all purposes, at the discretion of Owners.
2. **OTHER CONTRACTS**.
	1. Owners reserve the right to award other contracts in connection with the Project. Consultant shall cooperate, schedule and coordinate performance of its Work with the work of any other contractors, suppliers and consultants so as not to delay or interfere with their work, or with the timely completion of the Project. Owners also reserve the right to contract with others for the same type of work, as is the subject of the Agreement or to employ their own personnel in the work.
3. **Applicable Law**.
	1. Consultant and its Subcontractors, and their employees, agents and representatives shall at all times perform the Work in a safe and professional manner and comply with Applicable Laws, Applicable Utility Rules and other legal requirements, as such are amended from time to time. Consultant shall be responsible for the acts and omissions of its Subcontractors in connection with the Agreement.
	2. Consultant and its Subcontractors will conduct all Work under the Agreement in an economically, socially and environmentally responsible manner. Consultant and its Subcontractors further agree to ensure that their employees, agents and representatives perform the Work in accordance with the Contractor Environmental Health and Safety Manual included in Exhibit J - Safety and the Contractor Code of Business Ethics located at [Contractors | Otter Tail Power Company (otpco.com)](https://www.otpco.com/contractors).
	3. Consultant shall promptly notify Owners if (i) Consultant is served with notice of violation of any Applicable Law or Applicable Utility Rules, or engaged in a settlement agreement, permit, or license relating to its Work hereunder, (ii) near misses or injury occur during the course of performing its obligations under the Agreement, (iii) proceedings are commenced to revoke any certifications, permits or licenses which relate to such Work, (iv) certifications, permits, licenses, or other authorizations by a Governmental Body relating to such Work are revoked, (v) litigation that is related to or could directly affect the Work is commenced against Consultant, or (vi) Consultant becomes aware that its equipment or project related to such Work is not in compliance with Applicable Laws or Applicable Utility Rules ("**Sanctions**"). Consultant shall provide copies of any documents evidencing such Sanctions. Consultant will keep Owners informed on a regular basis of the progress made and resolution of such Sanctions, whether resulting in a requirement by Consultant or its Subcontractors to pay fines, modify operations or comply with said Sanctions in any other manner.
	4. If Owners determine that Consultant is failing to comply with any Applicable Laws, Applicable Utility Rules or other legal requirements, or observe unsafe work practices and/or conditions on the part of Consultant, Consultant’s or Subcontractors' employees or agents, Owners may (i) advise Consultant of such and direct Consultant to stop the Work, and (ii) Consultant shall cause all such Work to stop. Consultant shall bear all additional direct costs, including those that affect the Work Schedule which may result from Work stopped in accordance with this Section 4.4. In the event that such work stoppage is ultimately deemed by Owners to have been unnecessary, Owners shall bear the additional cost of such work stoppage and shall afford Consultant a reasonable extension in the Work Schedule for completion of the Work.
	5. Consultant warrants that neither it nor any of its Subcontractors have transferred, nor will it or they, transfer anything of value to any employee, agent or other representative of Owners, where such was or is made with the intent and/or understanding of obtaining favorable treatment with respect to the Agreement and/or the Work.
	6. Any material changes in Applicable Laws or Applicable Utility Rules or Owners' standard specifications after the date of execution of the Agreement, which have more than a deminimus effect on the cost or schedule of Consultant's Work, may be the subject of a request for a Change Order, subject to Article 14.
4. **SECURITY and site area limits**
	1. Consultant shall comply with Owners’ training, screening and security requirements applicable to Consultant personnel entering the Site, including persons working in security sensitive positions, and persons to be granted electronic or physical access to Owners Data.  Security sensitive positions include positions having access to Owners’ computer systems, Site, equipment, material, Owners’ property or the issuance of an access card or keys to Owners’ facilities, or as otherwise defined by applicable law or applicable Utility Rules.  Consultant personnel includes: Consultant personnel and the personnel of Subcontractors engaged by Consultant (as such Subcontractors are approved by Owners pursuant to the process set forth in Section 32.2).
	2. Owners’ screening and security requirements may, among other standards, require Consultant and/or its Subcontractors to perform criminal background checks, verify Social Security numbers, and perform drug testing on their employees.
	3. Detailed results of the background screening will only be discussed with the individual screened.  The screened individual’s employer will be notified only that the individual has been granted or denied a security clearance.  Those denied a security clearance may not work in a security sensitive position at any of the Owners’ properties nor enter Owners’ Site.
	4. Consultant shall notify Owner within 12 hours of any change in the employment status of any Consultant or Subcontractor personnel having physical or electronic access to Owners’ sites or working in security sensitive positions.
5. **OWNERSHIP OF WORK DOCUMENTS.**
	1. All Drawings, Designs, estimates, data, summaries, materials, information, plans, specifications, calculations, reports and other documents ("**Documents**") whether in hard copy or electronic media prepared pursuant to the Agreement shall become the sole and exclusive property of Owners and title thereto shall pass to Owners upon transmittal to Owners.
	2. Owners reserve the right to reproduce, modify and use in any manner, any and all Documents. To the extent that any Documents are for any reason determined not to be owned by Owners, Consultant hereby licenses Owners on a royalty-free perpetual basis for use in the operation and maintenance of the Site. Consultant is responsible for obtaining necessary permission and releases with respect to any third party ownership and/or licenses with respect to the Documents for and on behalf of Owners.
	3. Consultant shall, and shall cause its employees, representatives, agents and Subcontractors to execute and deliver any and all forms and instruments necessary or desirable to transfer the Documents such that Owners shall have of record all of their, as applicable, rights, interests, title and ownership in and to the Documents, free and clear of all third party encumbrances and interests.
	4. Consultant agrees that it and its employees, agents, representatives and Subcontractors, shall promptly communicate and disclose to Owners all computer programs, documentation, software and other copyrightable works, discoveries, improvements and inventions conceived, reduced to practice, written or made by Consultant or by its employees, agents, representatives and Subcontractors, whether solely or jointly with others, during the term of the Agreement and for one (1) year thereafter, as a result of performing services to the extent that such: (i) relate to Owners' business products or are applicable to or useful therewith, or (ii) relate to Owners' processes or procedures, or (iii) result from or relate to any services Consultant or its employees, agents, representatives and Subcontractors performs or performed.
6. **CERTIFICATION OF DOCUMENTS**.
	1. Any and/or all Documents and contract documents (as defined in the Agreement) shall be certified by Consultant if required by Applicable Law or Applicable Utility Rules, and if so required a professional engineer licensed to practice within the state of applicable jurisdiction shall provide such certification.
	2. Consultant shall maintain at its office at the Site, up-to-date copies of all Drawings, specifications, and other contract Documents and supplementary data, complete with latest revisions thereto. Consultant’s records shall be submitted in an electronic editable format approved by the Owners. In addition, Consultant shall maintain a continuous record of all field changes, and at the conclusion of the Work, shall incorporate all such changes on the Drawings and other engineering records. Drawing changes shall be recorded in a neat, orderly manner, drawn to scale, and dimensioned as a qualified draftsman would show the revisions. Field drafting of these revisions shall be of equal quality and detail as the original Drawings. Additions shall be shown in green, and deletions shall be shown in red. Upon completion of the revisions, two (2) copies shall be submitted to Owners. Consultant's records consisting of marked Drawings, engineering data, and sketches shall be submitted prior to official acceptance, but no later than ten (10) days after completion of the Work covered by the Agreement.
7. **CONSULTANT'S RESPONSIBILITIES**.
	1. Consultant shall give all notices related to the Work to applicable Governmental Bodies and obtain and pay for all licenses, permits and inspections required for the Work. The foregoing shall not include general permits obtained by Owners for the Site. If applicable and, notwithstanding the above, Owners may obtain any easements or right-of-ways associated with the Work. Owners shall have the right to inspect and obtain copies of all written licenses, permits or approvals, issued by any Governmental Body to Consultant or its Subcontractors that are applicable to the performance of the Agreement. Consultant shall not be bound to provide such notices for Design Work submitted to Owners, if such Work is limited solely to Designs.
	2. In the event Consultant performs services on or at the Site, Consultant and its employees and Subcontractors shall comply with all applicable provisions of Owners' Project Site, policies and procedures, including but not limited to any instructions and procedures pertaining to the Project or Site security, industrial safety, environmental directives, work authorization, equipment control and hazardous materials. In addition, Consultant**,** its employees and Subcontractorsshall comply with and enforce among Consultant's employees and Subcontractors Project and Site conditions and job work rules which affect the performance of the Work, including but not limited to work hours, smoking regulations, check-in and check-out procedures, job Site safety and security regulations, and emergency plans and procedures.
	3. Consultant shall remove or cause to be removed from the Site or Project, any person employed or engaged by Consultant or any of its Subcontractors whom Owners deem unfit. Owners shall notify Consultant of any such demand and Consultant shall promptly provide another person to perform the Work.
	4. Consultant will furnish licensed personnel to perform engineering, design, architectural or other services as specifically required in the proper performance of the Work.
	5. The construction entity or entities installing the Project shall be responsible for the construction means, methods, sequencing and safety precautions taken or omitted during construction. Consultant and its Subcontractors shall be responsible for compliance with all such safety precautions for the safety of Consultant's and Subcontractor's employees performing Work on or around the Project. With respect to Consultant's on-Site Work, if any, Consultant shall promptly report to Owners any safety violations with respect to the Site(s) of the Project, regardless of the source of fault, particularly in the event of an emergency.
	6. Consultant shall be responsible for and shall bear any and all risk of loss or damage to the Work in progress and to all materials delivered to the Site of the Work until Final Acceptance, including owner-furnished equipment and materials. Consultant shall also at all times conduct the Work in a manner to avoid risk of loss, theft or damage by vandalism, sabotage or other means to Owners' property and the Project.
	7. At Owners' discretion and at Consultant's risk, Consultant may be allowed to park and/or store vehicles, equipment, tools, materials, or any other items owned, leased, or rented by Consultant at the Site. Consultant shall store materials and supplies in locations which will not block access ways to the Site area. Consultant shall furnish cranes necessary for the execution of its Work. Consultant shall hold Owners harmless from any loss, damage, or destruction of such equipment, tools, materials or the like.

8.8 At Owners’ discretion and at Consultant’s risk, Consultant may be allowed to use Owners’ equipment. However, Consultant shall indemnify and hold Owners harmless from any loss, damage, or destruction of such equipment, tools, materials or the like.

1. **SCHEDULING**.
	1. Consultant agrees that time is a significant factor in Owners' decision to engage Consultant to perform the Work, including Consultant's agreement to adhere to the Work Schedule.
	2. Owners and Consultant shall agree on a schedule of the Work (the "**Work** **Schedule**") indicating the dates for the start and completion dates of various stages of the Work. Consultant shall strictly adhere to the Work Schedule. Owners reserve the right to direct Consultant to reschedule the order and rate of progress of performance of the Work so as not to interfere with the performance of work by Owners and/or other contractors and suppliers. If any such rescheduling of the Work outside Consultant's control hinders Consultant's ability to adhere to the Work Schedule, the Work Schedule and any increases or decreases in Consultant's costs may be equitably adjusted by a Change Order.
	3. If requested by Owners, Consultant shall promptly submit regular progress data as to the Work. If requested by Owners, Consultant shall participate in the Work Schedule update meetings.
	4. If at any time during the performance of the Work Consultant**'**s progress does not keep pace with the requirements of the Work Schedule, Owners may order Consultant to take steps to improve its progress without additional cost to Owners; provided, however, that Consultant shall have five (5) days to develop and implement its recovery plan for the Work Schedule (in consultation with Owners) from and after the date notified by Owners. Consultant's recovery plan will be diligently and continuously pursued by Consultant. Failure of Consultant to comply with such notice of Owners may be grounds for determination by Owners that Consultant is not pursuing the Work with such diligence as shall assure completion within the times specified. Upon such determination, Owners may terminate for default pursuant to Article 24 of these General Conditions.
	5. Consultant shall make available to Owners any and all data and reports, related to performance of the Work. Owners' review of any such data shall in no way relieve Consultant of its responsibility for the professional quality, technical accuracy and completeness of such data.
	6. Should the actions of Owners cause a significant delay of the Work, Consultant shall notify Owners in writing within ten (10) business days from the beginning of such delay. If Owners and Consultant determine the facts justify an extension of time and/or additional compensation and no remaining float time exists in the Work Schedule, the Agreement will be modified in writing as appropriate. Owners may, in their sole discretion and in lieu of granting an extension of time, require Consultant to regain the Work Schedule, and Owners shall compensate Consultant for any required additional charges; provided, however, that no adjustment shall be made for any delay to the extent that performance would have otherwise been delayed by any other cause, including the fault or negligence of Consultant.
	7. With respect to events of Force Majeure:
		1. Owners and Consultant shall be excused from performing in accordance with the Work Schedule in the event of an occurrence of "**Force** **Majeure**." Force Majeure, is defined as fire, floods, earthquake, hurricane, tornado, explosion, catastrophe, accident, war or war-like operations (whether or not a state of war is declared), riot, acts of God, acts of terrorism, insurrection, order of a Governmental Body and Applicable Laws that prevent performance, to the extent (i) such event of Force Majeure is beyond the reasonable control of the Party claiming Force Majeure, and (ii) the Party claiming Force Majeure gives prompt written notice to Owners within 14 calendar days of the same to the other Party. Labor strikes are not Force Majeure events.
		2. In the event of any such delay, Consultant's sole remedy shall be a time extension for the completion dates required by the Work Schedule, which extension shall be the time period lost by reason of the Force Majeure.
2. **FAMILIARITY WITH THE** **WORK**.
	1. By executing the Agreement, Consultant represents that it understands the scope of the Work under which the Agreement is to be performed and has correlated its understanding with the requirements of the Work and the Work Schedule.
	2. No pleas of ignorance of conditions that exist or hereafter may exist, or of conditions or difficulties that may be encountered in the execution of the Work will be accepted as an excuse for failure or omission on the part of Consultant to fulfill in every detail all requirements of the Agreement, nor will they be a basis for any Claim whatsoever for extra compensation or time.
3. **RESPONSIBILITY AS TO OTHER CONTRACTORS**.
	1. Consultant shall properly coordinate its Work with other contractors, Subcontractors and suppliers working on the Project to assure that each such other contractor or Subcontractors may carry out their respective work assignments within the Project.
	2. If any part of Consultant's performance of the Work depends upon the work of any of Owners' other contractors or Owners, Consultant shall coordinate its efforts with those of other contractors or Owners to the extent reasonably practical and perform a visual inspection of the work. Should Consultant discover any defects in that work, Consultant shall promptly report to Owners in writing any discrepancies or defects in such work; provided, however, Consultant shall not have any affirmative obligation to discover any such errors or defects.
	3. Consultant shall have no control or right of control over Owners or any of Owners' other Subcontractors or suppliers, or their agents, employees, or invitees, in connection with the means, methods, techniques, sequences, procedures, programs and construction equipment or safety procedures used or not used by Owners or such other subcontractors or suppliers in their performance of any phase of the contract Work, except when specifically engaged to do so.
4. **INSPECTION**.
	1. The Work and all portions thereof shall be subject to inspection by Owners or their designee at all times. Any such inspection shall not relieve Consultant of the responsibility to strictly comply with its performance requirements and other obligations under the Agreement, it being understood that any such inspection by Owners shall in no way (i) be construed as constituting or implying either a waiver or acceptance of the work, or (ii) affect any of Owners' rights or remedies under the Agreement.
	2. Consultant shall make available to Owners any and all data, including but not limited to, test results, reports, drawings related to performance of the Work. Owners' review of any such data shall in no way relieve Consultant of its responsibility for the professional quality, technical accuracy and completeness of such data.
5. **USE OF COMPLETED SEGMENTS OF** **WORK**.
	1. Whenever, as determined by Owners, any segment of the Work performed by Consultant is in a stage suitable for utilization by Owners, Owners may at their sole option take possession of or use such segment. Such use by Owners shall in no case be construed as constituting Final Acceptance, and shall not relieve Consultant of any of its responsibilities under the Agreement.
6. **WORK CHANGES**.
	1. Owners, without invalidating the Agreement, may at any time make changes to or deviations from the scope of the Work with a Change Order issued by an authorized representative of Owners to Consultant.
	2. If Consultant claims that the Change Order causes an increase or decrease in the cost of or the time required for performance of the Work, Consultant shall give Owners written notice of such increase or decrease within ten (10) business days following the receipt of such a request. Consultant shall also provide sufficient documentation to Owners to justify the increase or decrease in the cost of or the time required for performance of the Work.
	3. If accepted in writing by an authorized Owners’ representative, an equitable adjustment may be made in the price or Work Schedule, or both, and the Change Order shall be deemed to modify the Agreement. In the event the Parties do not agree that a change would give rise to a Change Order, the matter will be subject to Article 30, Disputes.
	4. Consultant's failure to comply with Section 14.2 of these General Conditions shall constitute Consultant's agreement to perform any such Change Order in accordance with the price and schedule specified in the original order and/or subsequent revisions thereto.
7. **SUSPENSION OF** **WORK**.
	1. Owners may, by notice to Consultant, suspend at any time the performance of all or any portion of the Work. During the period of suspension, Consultant shall use its commercially reasonable efforts to minimize costs associated with suspension.
	2. Upon receipt of any such written notice, Consultant shall, unless such notice requires otherwise:
		1. Immediately discontinue the Work on the date and to the extent specified in the notice;
		2. Place no further orders or subcontracts with respect to suspended Work other than to the extent required in the notice;
		3. Promptly make every reasonable effort to obtain suspension upon terms satisfactory to Owners of all orders, subcontracts, rental agreements and the like to the extent they relate to performance of the Work suspended; and
		4. Promptly make every reasonable effort upon terms satisfactory to Owners to protect or maintain the Work.
	3. As full compensation for such suspension, Consultant shall be reimbursed for the following costs, to the extent reasonable and if such costs directly result from the suspension of the Work:
		1. A standby charge based upon the period of suspension of the Work, which standby charge shall be sufficient to reimburse Consultant for its actual costs of keeping its organization committed to the Work in a standby status;
		2. The actual costs associated with actual mobilization and demobilization of Consultant's resources; and
		3. Any actual increased cost of the Work incurred by Consultant.

All costs to be reimbursed must be requested within forty-five (45) days following termination of the suspension. Any such costs shall be documented and evidenced by all supporting documentation requested by Owners and shall be subject to the audit rights of Owners as set forth in these General Conditions.

* 1. Upon receipt of notice to resume suspended Work, Consultant shall promptly resume performance of the suspended Work to the extent required in the notice. Consultant hereby expressly waives any claim it may have for additional time or extra compensation because of any suspension of the Work unless such claim along with a revised Work Schedule (with respect to the Work suspended) is presented to Owners in writing within ten (10) calendar days after Consultant's receipt of notice to resume the Work. No compensation or extension of time shall be granted if the suspension results from Consultant's noncompliance with the requirements of the Agreement or from any cause other than Owners' suspension order pursuant to this Article 15.
1. **CONSULTANT WARRANTIES**.
	1. Consultant represents and warrants that is has the experience necessary to adequately and competently perform the Services. Consultant warrants that it shall perform its services in accordance with the Agreement and with care, skill and diligence in accordance with applicable professional standards currently recognized by such profession and that all Work shall be free from defects in design and workmanship. Consultant shall be responsible for and warrants for a period of twelve (12) months after Final Acceptance the professional quality, technical accuracy, completeness and coordination of the Work and other services furnished under the Agreement.
	2. Upon receipt of notice from Owners of any failure to comply with the terms of the Agreement including these General Conditions and, without limitation, any defect with respect to the Work, both prior to or after Final Acceptance, Consultant shall without additional compensation correct any such defects within a time acceptable to Owners and reimburse Owners for any resulting costs, expenses or damages suffered by Owners, including but not limited to costs of removal, reinstallation, re-procurement and any other third party costs, damages and losses incurred by Owners. If Consultant fails to timely replace any such defective Work, Owners may cause such defective Work to be replaced by another and the direct and indirect expense thereof shall be the responsibility of Consultant. Owners shall be entitled to deduct this expense and the resulting damages from amounts otherwise due to Consultant. For purposes of this Section 16.2, indirect costs do not include loss of profits or revenue, cost of capital, loss of use or equipment or facilities, cost of purchased or replacement power, or claims of customers due to loss of service. The warranties hereunder shall benefit Owners and the third party beneficiaries to the Agreement pursuant to the operation of the Agreement.
	3. THE WARRANTIES SET FORTH IN THIS ARTICLE 16 ARE IN LIEU OF ALL OTHER WARRANTIES RELATING TO THE WORK WHETHER STATUTORY, EXPRESS OR IMPLIED AND CONSULTANT DISCLAIMS ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING AND/OR USAGE OF TRADE. The warranties and obligations contained in this Article 16 are Consultant's sole warranties and Owners' exclusive remedy with respect to the warranty of the Work described above; provided, however, the foregoing shall not in any manner affect Owners' rights of indemnification or direct damages for breach of, under or pursuant to the Agreement, including these General Conditions. No failure on the part of Owners in the exercise of any right or remedy shall operate as a waiver of or by Owners of their right to exercise any other right or remedy.
2. **INSURANCE**.
	1. Consultant and its Subcontractors shall comply with the insurance provisions of Exhibit C.
3. **FINAL ACCEPTANCE**.
	1. Consultant shall notify Owners in writing when it believes the conditions of Final Acceptance are deemed achieved by Consultant.
	2. After receipt of Consultant's notification pursuant to Section 18.1 above, Owners shall be deemed to have determined their Final Acceptance of the Work performed by Consultant by Owners’ payment of the final invoice submitted by Consultant for the Project. Payments made hereunder do not excuse non-conforming Work under the Agreement.
4. **PRICE AND PAYMENT TERMS**.
	1. Payments shall be made as stated in the Agreement. Unless a different term is agreed to between the Parties, payments will be made forty-five (45) days after receipt of an invoice approved by Owners in accordance with the payment terms herein, of the Agreement and Owners' then-current policies and procedures. If Owners object to all or any portion of an invoice, Owners shall notify Consultant within fifteen (15) business days of invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute so long as Owners’ invoice procedures are met.
	2. Payments otherwise due may be withheld on account of defective Work not remedied, Claims made or liens filed, damage by Consultant to Owners or others not adjusted, failure to make payments to Subcontractors, or for any other failure to perform in accordance with the Agreement; provided, however, that the amount of payments withheld shall not exceed the reasonably estimated amount of the matter in dispute. Work under the Agreement must be performed prior to payment by Owners, other than customary mobilization costs.
	3. All Consultant invoices shall reference (i) the Agreement, (ii) the Purchase Order/Work Order, and (iii) any other applicable reference numbers. Such invoices shall also contain a complete description of all charges submitted in the format requested by Owners. Each invoice or other application for payment must be accompanied by a lien waiver for the Work for which payment is to be made. All lien waivers shall be in the form attached as Exhibit D. Consultant shall provide Owners a final invoice within sixty (60) days of Final Acceptance.
	4. In making payments hereunder, Owners shall be entitled to conclusively presume that payment information furnished by Consultant is accurate, including account number(s) and name of payee. In no event shall Owners make a subsequent payment where the first payment is made in accordance with such information, unless the first payment has been returned in full to Owners. All payments shall be in U.S. dollars.
	5. When requested, Consultant shall provide to Owners an itemized schedule of quantities and values of the various functions necessary to perform the Work. Consultantshall use Owners' system of accounts to submit any itemized cost breakdown requested by Owners.
	6. Consultant irrevocably agrees that acceptance by Consultant of final payment shall fully and completely release Owners from all Claims and demands that Consultant may have or has against Owners and/or their corporate affiliates and their respective officers, directors, employees, agents, representatives and customers arising out of, resulting from, or in any way connected with the Work performed by Consultant pursuant to the Agreement, including any Purchase Order(s)/Work Order(s). Consultant further acknowledges and agrees that such final payment, together with all payments made prior to the final payment, constitutes full payment of all amounts due Consultant under the Agreement, including under any Purchase Order(s)/Work Order(s) and all amounts due for all claims of any type and all extra Work. In accepting the final payment, Consultant further warrants and represents that all claims, bills, payrolls, expenses, costs, taxes, and other indebtedness incurred in connection with the Work performed pursuant to the Agreement, including Purchase Order(s)/Work Order(s) have been paid in full.
5. **RIGHT TO AUDIT**.
	1. Consultant shall maintain during the course of the Work, and retain not less than seven (7) years after completion thereof, complete and accurate records of all Consultant's records arising from, in connection with or incident to the Work and the Project, including without limitation, all (i) costs which are chargeable to Owners under the Agreement, and (ii) Documents, granted authority, permits and other evidentiary data that evidences compliance with the Agreement (including these General Conditions) and all Applicable Laws. Owners shall have the right, during normal working hours, to inspect, reproduce, and audit such records of Consultant by authorized representatives of their own or any third party contract compliance-auditing firm selected by Owners. The records to be thus maintained and retained by Consultant must provide sufficient detail to evidence the propriety of all such chargeable costs and compliance with the Agreement (including these General Conditions) and all Applicable Laws. Consultant shall cause all of its Subcontractors to adhere to and comply with the requirements set forth above.
	2. The foregoing shall not be applicable to the fixed-price portion of the Work, but shall include all Work performed pursuant to a Change Order or on a time-and-material basis. Notwithstanding the foregoing, Consultant shall cooperate with and provide documents in connection with any inquiry, audit or other investigation by or pursuant to the authority of a Governmental Body.
6. **TAXES**.
	1. Unless otherwise specified in these General Conditions or in the Agreement, Consultant shall process and pay all sales, use and other taxes that are lawfully assessed in connection with the Work. The actual amount of sales, use and other taxes paid by Consultant shall be shown as separate items on all invoices.
7. **TRAVEL EXPENSES**.
	1. For agreed to reimbursable travel, Consultant shall make its own travel arrangements and must utilize the lowest cost method available taking into account the exigencies of the Work and the circumstances requiring such travel. Consultant's invoice must provide documentation to substantiate all charges. Owners will pay no additional amounts for travel related expenses in connection with firm price agreements.
8. **TERMINATION FOR CONVENIENCE**.
	1. Owners may, at their option, terminate the Agreement in whole or in part at any time by written notice thereof to Consultant, whether or not Consultant is in default.
	2. Upon any such termination, Owners shall pay for all Work completed and the reasonable cost of demobilization to the reasonable satisfaction of Owners, not to exceed the total price of the Agreement as amended by Change Orders. No amount shall be allowed for anticipated profit on unperformed Work or overhead. Upon receipt of any such notice and unless the notice requires otherwise, Consultant shall forthwith:
		1. Discontinue the Work (including the removal of personnel from Owners' premises) on the date and to the extent specified in the notice; and
		2. Deliver to Owners all Documents whether completed or in process, accumulated by Consultant in performance of the Work. Owners shall have the right, at their sole option, to purchase and take possession of any unused materials, supplies, or property acquired by Consultant pursuant to the Agreement at the price paid by Consultant.
9. **TERMINATION FOR DEFAULT**.
	1. Owners may, by written notice of default to Consultantterminate the whole or any part of the Agreement if:
		1. Consultant or its Subcontractors fail to perform any of their material obligations under the Agreement or fail to make progress so as to endanger timely completion of the Work, and Consultant does not cure such failure within five (5) business days after receipt of notice by Owners, or provide a plan that is acceptable to Owners, in the sole discretion of Owners, to commence a cure within five (5) business days after receipt of notice and diligently and continuously pursue a cure thereafter; or
		2. Consultant is generally unable to pay its debts as they come due, or makes an assignment for the benefit of creditors; or Consultantapplies for or consents to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property, or such a receiver, trustee or similar officer is appointed without the application or consent of Consultant, and such appointment continues undischarged for a period of thirty (30) days; or Consultant institutes (by petition, application, answer or otherwise) any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution, liquidation or similar proceeding under the Applicable Law of any jurisdiction, or any such proceeding is instituted against Consultant.
	2. In the event Owners terminate the Agreement as provided in this Article 24, Owners may at their option arrange for completion of the Work. Consultant shall be liable to Owners for all direct costs incurred by Owners to cure Consultant's default.
	3. Unless otherwise stated in the notice, upon receipt of notice of termination for default, Consultant shall:
		1. Immediately discontinue the Work on the date and to the extent specified in the notice; and
		2. Deliver to Owners all Documents, Drawings, reports, plans, specifications, data, estimates, summaries or other material and information whether completed or in process, related to the Work. Owners shall have the right, at their sole option, to purchase and take possession of any unused materials, supplies, or property acquired by Consultant pursuant to the Agreement at the price paid by Consultant.
	4. If it is determined for any reason that Consultant was not in default or that there has been a wrongful termination, Consultant's sole and exclusive remedy shall be the same as if Owners had terminated the Agreement for convenience pursuant to Article 23 of these General Conditions.
	5. The rights and remedies of Owners provided in this Article 24 shall be in addition to the rights and remedies provided at law or equity or otherwise under the Agreement. No failure or delay on the part of Owners in exercising any right shall operate as a waiver thereof.

24.6 Each subcontract agreement between Consultant and its Subcontractors for the Work is hereby assigned by Consultant to the Owners, provided that such assignment is effective only after termination of the Agreement for any reason and only for those subcontract agreements that Owners accept by notifying the Subcontractor and Consultant in writing. Consultant shall include a provision in all of its subcontracts providing that such subcontracts are assigned to Owners in accordance with these General Conditions. Consultant shall provide and sign such documents as may be required by the Owners to effect or evidence any such assignment.

1. **CONFIDENTIAL INFORMATION**.
	1. The Parties shall maintain the confidentiality of all information secured from the other Party in connection with the Agreement. Such confidential information of the other Party, which includes but is not limited to records, books, financial data, projections, and customer, employee and consultant information furnished to or by a Party, together with any analyses, compilations, studies, reports or other documents based in whole or in part upon such information, shall not be divulged to any third party and shall not otherwise be exploited commercially by the non-disclosing Party, except with prior written consent of the disclosing Party or as compelled by Applicable Law. If either Party is or could be legally compelled to make disclosure of confidential information, the non-disclosing Party will notify the disclosing Party prior to making such disclosure and take all reasonably available steps to limit the effects of such disclosure and if possible, require the Parties to whom the information is disclosed to maintain the confidentiality of such information.
	2. This Article 25 and the restrictions contained herein shall not apply to any data and documentation:
		1. Which is in the public domain at the time it was disclosed or at any time thereafter;
		2. Which was already known to the non-disclosing Party at the time of disclosure;
		3. After three (3) years from the date of execution of the Agreement unless (i) the restriction applies to a trade secret, in which case the restriction shall not expire, and/or (ii) is subject to a longer restriction by a third party;
		4. Which is independently developed by the non-disclosing Party; or
		5. Which becomes known to the Party from an independent source, where such source has not violated an agreement of confidentiality.
	3. Notwithstanding the preceding, Owners may disclose or otherwise make available such Consultant proprietary data (i) to their attorneys, employees, agents and representatives, (ii) pursuant to Applicable Law, including, without limitation, court order, subpoena and regulatory rules or advice, and (iii) to a third party with whom Owners contract for maintenance, operation, training, modification, construction, repair or consultation, provided that said third party agrees to be bound in writing by similar limitations on use and disclosure of such data as contained herein. Owners agree to take all reasonable action by instruction to their employees who are permitted access to Consultant proprietary data to satisfy their obligations under this Article 25.
	4. In addition to the requirements of Section 25.1 regarding Consultant's treatment of confidential information of Owners, Consultant agrees that:
		1. Owners are public utilities subject to Federal Energy Regulatory Commission (FERC) standards of conduct rules regarding non-public disclosure of transmission function information to their marketing function or wholesale function personnel (18 C.F.R. Part 358 effective October 27, 2008, and as may be amended from time to time).
		2. If the Work involves the transmission assets of Owners, Consultant will not reveal any non-public transmission information to any person employed by Owners in a sales or marketing function of any of the Owners or by an energy affiliate (as those terms are defined in 18 C.F.R. Part 358). Consultant shall strictly comply with any communication protocols established by Owners to prevent the disclosure of non-public transmission information with respect to the performance of Work; and
		3. Consultant certifies on behalf of itself and its employees, agents and representatives that it and they are aware of the requirements of 18 C.F.R. Part 388.113. Consultant further certifies that after diligent review of 18 C.F.R. Part 388.113, it has no reason to believe that it or any of its employees, agents or representatives who may be granted access to confidential information that is also Critical Energy Infrastructure Information would be restricted from access to such Critical Energy Infrastructure Information pursuant to 18 C.F.R. Part 388.113.
		4. "**Critical Energy Infrastructure Information**" (CEII) as used in these General Conditions means information that has been previously designated as CEII when filed with the FERC, or all information disclosed to Consultant or its representatives, by Owners in connection with the Work, including information about proposed or existing Critical Infrastructure that: (i) relates to the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to a person in planning an attack on Critical Infrastructure, (iii) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552, and (iv) does not simply give the location of the Critical Infrastructure. "**Critical** I**nfrastructure**" as used in these General Conditions means systems and assets, whether physical or virtual, that are so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on the security, national economic security, national public health or safety, or any combination of those matters. Consultant agrees not to use CEII that is confidential information for purposes other than in connection with the Work.
2. **NOTICE OF CLAIMS AND LIENS**.
	1. Consultant agrees not to assert or pursue any Claim against Owners for damages of any kind or nature unless written notice thereof shall have been given to Owners within ten (10) days after the occurrence giving rise to such damages.
	2. The Work performed by Consultant shall pass to Owners and be free and clear of all liens, encumbrances and third party interests (other than a Claim made by Consultant pursuant to Section 26.1). In the event Owners are notified in writing of a third party Claim or Claims arising from the Work performed by Consultant, Owners shall notify Consultant of such Claim or Claims and Consultant shall appoint a representative who will have the authority to settle any Claims, subject to the prior approval of any settlement terms by Owners. If Consultant fails to appoint a representative to settle such Claims, Owners shall have the right to make settlement thereof and charge the same to Consultant.
3. **indemnity**.
	1. Consultant agrees to defend, indemnify and hold harmless Owners and their shareholders, members, partners, affiliates, employees, representatives and agents (including Owners’ third party beneficiaries and Owners’ project manager and engineer) (collectively, the "**Owner Indemnitees**") from and against all liability (including any strict liability) arising from a third party Claim, including Claims, suits, actions, costs (including reasonable attorneys fees and costs of investigation), expenses, damages, losses, fines, interest, penalties, assessments, judgments, demands, causes of action and litigation/arbitration of any kind or character (individually, a "**Claim**" and collectively, "**Claims**") arising from Consultant's (A) willful or negligent acts or omissions or those of Consultant's officers, employees, representatives, agents, affiliates or Subcontractors, or (B) breach of the Agreement, including passage of good and marketable title to the Work, that may be imposed on, incurred by or asserted by a third party against any Owner Indemnitee. Consultant shall have the sole authority to direct the defense or settle any Claim indemnified by Consultant; provided, that Owners may monitor such matters through counsel of their choice and at their own cost; and provided, further, that Consultant may not settle any indemnified Claim unless such settlement includes a release of, and the consent of (not to be unreasonably withheld) Owners and the other Owner Indemnitees. The foregoing indemnity will be applicable whether or not materials, equipment or property were or are owned by Owners. The indemnification obligations hereunder are not limited by insurance coverage.

With respect to third party Claims of negligence, (i) Consultant shall be responsible for that portion of any award by way of judgment in which it is determined that Consultant was negligent, but only to the amount represented by the percentage of such negligence so determined against Consultant and any joint tortfeasor in the action (other than Owners and the other Owner Indemnitees), and (ii) if Owners or any of the other Owner Indemnitees are determined in such judgment award to have been negligent and any have a percentage of such negligence allocated to them, Owners and the other Owner Indemnitees shall be responsible solely for the amount represented by the percentage of their respective negligence so determined; provided, however, the foregoing shall not be deemed to relieve Consultant of its obligation to (A) defend Owners and the other Owner Indemnitees in any such third party Claim, and (B) indemnify and hold Owners and the other Owner Indemnitees harmless from and against (1) all legal and associated fees arising from, in connection with or incident to the third party Claim, and (2) the allocated negligence liability of Consultant and any other person or entity for their negligent and other acts or omissions. No matter the outcome of the third party Claim, Consultant shall not have the right to seek payment of (and Owners and the other Owner Indemnitees shall not have any obligation to pay) the legal and other defense fees and costs of Owners and the other Owner Indemnitees which arise in connection with any such third party Claim. No settlement of any such third party Claim against Owners or any of the other Owner Indemnitees shall be made unless consented to in writing in advance by Owners, which consent shall not be unreasonably withheld.

1. **INFRINGEMENT**.
	1. Royalties and fees for patents, trademarks, copyrights or trade secrets related to designs, materials, articles, apparatus, devices, equipment or processes and the like ("**Design(s)**") used in or created pursuant to the Agreement, are included in the Agreement price. Consultant shall, at its own expense, hold harmless and defend Owners against any Claim, suit or proceeding brought against Owners which is based upon any Claim that manufacture, sale or use of any such Design, material, article, apparatus, device, equipment or process, or any part thereof, constitutes an infringement of any patent, trademark, copyright, trade secret or any other proprietary right of a third party, and Consultant shall pay all defense costs and damages and costs awarded against Owners, including attorneys' fees resulting therefrom.
	2. If any Design(s), or any part thereof, is found to constitute infringement and/or its use is enjoined, Consultant shall, at its own expense, subject to the following provisions, either: (i)  procure for Owners an irrevocable, royalty-free license to continue Owners' use of the Design(s), (ii) with Owners' prior written approval, replace the same with equal but noninfringing Design(s), or (iii) with Owners' prior written approval modify the Design(s) so it becomes noninfringing, provided that no such replacement or modification shall in any way amend or relieve Consultant of its obligations set forth in the Agreement, including these General Conditions.
	3. Notwithstanding any proprietary legends or Claims of copyright, Owners may copy or reproduce Documents and information furnished by Consultant and distribute such copies or reproduction to others in connection with the Project. Consultant is responsible for obtaining necessary permission and releases from any third parties and shall, at its own expense, hold harmless and defend Owners against any and all Claims, suits or proceedings based upon any Claim that a proprietary right or copyright has been infringed.
2. **LIMITATION OF LIABILITY**.
	1. In no event shall Owners or any third party beneficiary to the Agreement be liable to Consultant for any special, incidental, indirect, punitive or consequential loss or damage whether or not such loss or damage is caused by the fault or negligence of Owners, their employees, or agents. This exclusion of liability for special incidental, indirect, punitive or consequential loss or damage includes, but is not limited to, loss of profits or revenue, cost of capital, loss of use of equipment or facilities, loss of financing, business or reputation. Owners' liability on any Claim of any kind for any loss or damage arising out of or in connection with or resulting from the Agreement or from performance or breach thereof shall in no case exceed the contract price of the Work, as adjusted by any applicable Change Orders.
	2. In no event shall Consultant be liable to Owners or any third party beneficiary to the Agreement for any special, incidental, indirect, punitive or consequential loss or damage whether or not such loss or damage is caused by the fault or negligence of Consultant, its employees, agents or Subcontractors. This exclusion of liability for special, incidental, indirect, punitive or consequential loss or damage applies to loss of profits or revenue, cost of capital, loss of use of equipment or facilities, cost of purchased or replacement power or Claims of customers due to loss of service. This exclusion does not apply to third party Claims requiring indemnification under Articles 27 and 28 of these General Conditions or if the Agreement is terminated by Owners for default pursuant to the Agreement, including Article 24 of these General Conditions.

1. **DISPUTES**.
	1. The Parties agree that all disputes arising out of the Agreement shall be subject to this Article 30.
	2. In the event of a dispute, authorized representatives from each Party familiar with the Work will meet to resolve the dispute. If these representatives fail to resolve the dispute within seven (7) days, senior representatives from each Party will meet to resolve the dispute. If the senior representatives are unable to resolve the dispute in seven (7) days, such dispute shall be subject to the remaining provisions below.
	3. Any disputes under the Agreement will be governed by the internal laws of the State of North Dakota, without regard to conflict of laws provisions, and any action brought with respect to the Agreement shall be venued in State Court, Strutsman County, North Dakota.
2. **INDEPENDENT CONTRACTOR**.
	1. The Parties expressly agree that Consultant is an independent contractor and is not an employee, partner or joint venturer of Owners. Consultant shall (i) exercise its independent professional judgment in the performance of the Agreement, and (ii) supply the manner and means of performance of the Work hereunder. Consultant, its Subcontractors and their respective employees, agents and other representatives shall not have the right to represent or bind Owners in any manner.
	2. Consultant and its Subcontractors are directly and solely responsible for the safety of their respective agents, employees and other representatives. Owners in no way assume any of the duties, obligations or liabilities attributed to Consultant under the Agreement. Consultant shall immediately report via telephone and in writing to an Owners’ representative all accidents in connection with the Work that result in death, personal injury, or property damage.
	3. Any and all agents, employees and Subcontractors of Consultant provided to perform the Work shall be the agent, employee or Subcontractor of Consultant. Consultant shall be solely responsible for the wages, salary, overtime, taxes, benefits (if any) and any and all other payments or benefits owed to an agent, employee or Subcontractor of Consultant for Work provided under or pursuant to the Agreement. No Consultant's employee shall be entitled to any retirement, welfare, fringe or other benefit provided by Owners to their employees.
	4. If for any reason an investigation is conducted or a proceeding commenced by any Governmental Body, the purpose of which is to determine whether for any reason a Consultant's employee is an employee of Owners, Consultant shall assist and cooperate with Owners in preparing a response to or defending against, as the case may be, any such investigation or proceeding or the appeal of any such investigation or proceeding. Consultant shall reimburse Owners for any and all reasonable costs Owners incur in the preparation and presentation of their response to any such investigation or proceeding; provided, however, that Consultant shall not be responsible for such costs to the extent such costs are caused by a breach by Owners of the Agreement.
	5. If it is determined by a Governmental Body, that a Consultant's employee is an employee of any of the Owners and Owners elect not to appeal such determination or such determination shall not be appealable, Consultant shall reimburse Owners for any damages or costs or penalties of any kind which Owners are ordered to pay by the Governmental Body. The Parties further agree that if a Governmental Body determines that a Consultant's employee is an employee of any of the Owners, such Consultant's employee shall be considered to be an employee of such Owner or Owners only and solely to the extent set forth in the determination of the Governmental Body and for no other purpose.
3. **ASSIGNMENT AND SUBCONTRACTING**.
	1. Consultant shall not assign the Agreement, or any part thereof, nor delegate in whole or in part, its responsibilities hereunder, without the prior written consent of Owners. Unless otherwise agreed to in writing by Owners, no assignment will release or discharge Consultant from any obligations under the Agreement.
	2. Consultant may not subcontract its responsibilities under the Agreement without the prior written permission of Owners. To the extent Owners agree to allow Consultant to subcontract any portion of the Work, Consultant shall ensure that all Subcontractors are bound by the terms of the Agreement, including these General Conditions, in a writing executed by Consultant and Subcontractor. Furthermore, the agreement between the Consultant and Consultant’s Subcontractor shall be subject to the review and approval by the Owners. Owners shall be and are intended third party beneficiaries of any Subcontractor agreement. Any delegation of the Work through subcontracting shall not relieve Consultant of its responsibilities under the Agreement nor result in extra cost or liability to Owners.
	3. It is the intent of these General Conditions that Consultant shall perform the majority of the Work with its own forces and under the management of its own organization. Specific portions of the Work may be subcontracted only to Subcontractors who have been listed in the proposal data and who are accepted by Owners.
4. **OFFSHORE** **WORK AND DATA TRANSFER**.

33.1 Consultant shall not perform any portion of this Agreement (i) in locations outside the United States ("**Offshore Locations**"), or (ii) by personnel, agents or Subcontractors located outside the United States (collectively "**Offshore Personnel**"), without first obtaining Owners’ prior written consent.  Consultant shall not (i) transfer Owners Data to Offshore Locations, or (ii) access Owners Data or systems from Offshore Locations and/or by Offshore Personnel, without first obtaining Owners’ prior written consent.  All requests for consent shall (a) be in writing, (b) identify the Offshore Personnel and specify the Offshore Locations, and (c) be sent to the Owners’ representative listed in the notice section of this Agreement.  Any written consent issued by Owners shall only apply to the identified Offshore Personnel and specified Offshore Locations.  Any desired changes of Offshore Personnel or Offshore Locations shall require a new consent from Owners.  Owners’ consent may be conditioned on Consultant complying with additional and/or different terms (e.g. additional security screening).

1. **DATA SECURITY**.

34.1 **Ownership and Use of Owners Data.**  " Owners Data" means (i) non-public data and information regarding Owners’ business provided to, accessed, or used by Consultant in connection with this Agreement (collectively “business data”), and (ii)  non-public data and information concerning Owners’ customers and employees (an “individual”) provided to, accessed or used by Consultant in connection with this Agreement that can be used to distinguish or trace the identity of an individual alone, or when combined with other personal or identifying information which is linked or linkable to the individual (collectively “personal data”).  As between the Parties, Owners Data shall be and remain the property of Owners. Consultant shall hold and maintain Owners Data in strict confidence, and not share or disclose Owners Data to any third party without Owners’ advance written consent. Consultant will use Owners Data only for the purpose of performing this Agreement.

34.2 **Protection of Owners Data.**  Consultant shall exercise all due care with respect to Owners Data and the collection, handling, delivery, processing and transmission thereof.  Consultant will maintain appropriate physical, technical and general measures to protect Owners Data against accidental loss or unauthorized access, use, disclosure, alteration, or destruction.  Consultant acknowledges that the level of security that is appropriate will depend on the sensitivity of the information, the risks represented by the processing, the harm that is likely to result from a breach of security, industry standards and applicable law, including all Data Laws (as defined below). Consultant will in all cases limit access to Owners Data to those employees, officers, subcontractors and agents (“Consultant Personnel”) who need such access to perform the Services, having first informed and bound Consultant Personnel to Owners’ obligations.  Consultant will remain responsible for the acts and omissions of all Consultant Personnel.

34.3 **Treatment in Accordance with Data Laws.**  Consultant will treat, handle, store, access and use Owners Data in accordance with applicable law; including privacy laws, orders of courts and regulatory agencies, and other laws applicable to the use, unauthorized access, confidentiality and security of Owners Data, and procedures relating to the foregoing, including the international transfer of Owners Data (collectively "Data Laws").

34.4 **Security Breach.** For purposes of this section, “Security Breach” means any actual, suspected or potential unauthorized or accidental theft, loss, alteration, destruction, or unauthorized use or disclosure of any Owners Data or a breach of Consultant's security or information systems that could reasonably be expected to expose Owners Data to unauthorized or accidental access or use.  Consultant will (i) notify Owners within twenty four (24) hours of any Security Breach; (ii) cooperate fully with Owners in facilitating investigation and remediation of a Security Breach to prevent reoccurrence, and mitigate any harmful effects that are reasonably likely to arise out of the Security Breach; (iii)  at its expense, provide such access, information, and assistance as is necessary for Owners and/or its designee(s) and law enforcement or forensics experts to complete the investigation of the Security Breach; (iv) pay all out-of-pocket costs and expenses, including without limitation, reasonable attorney’s fees and forensic experts’ fees, incurred by Owners in connection with any such investigation (or review of Consultant’s investigation); (v) at Owners’ request, promptly provide to Owners such information as may be necessary to permit Owners to comply with applicable Data Laws and security breach notification requirements; and (vi) pay all out-of-pocket costs and expenses, including without limitation, reasonable attorney’s fees and forensic experts’ fees, incurred by Owners in connection with (1) providing such notifications to appropriate law enforcement agencies, governmental regulatory authorities, and affected or potentially affected persons as may be required by applicable Data Laws or otherwise reasonable under the circumstances and (2) providing, during the twelve months following Owners’ receipt of notice of the Security Breach, such identity theft assistance, including credit monitoring and other identity theft prevention services, to potentially affected or affected persons as may be reasonable under the circumstances to mitigate the harm or risk of harm arising out of the Security Breach.

34.5 **Audit and Verification.**  Consultant shall permit Owners to reasonably audit and verify Consultant’s data security systems and procedures to confirm Consultant’s compliance with these provisions and any applicable Data Laws, or in lieu thereof to provide an SSAE no. 16 SOC 2 report.

34.6 **Disclosure Required by Law.**  Consultant may disclose Owners Data as required by law.  In the event of any such required disclosure, Consultant will notify Owners sufficiently in advance of the disclosure to permit Owners to seek a protective order and Consultant shall cooperate with Owners in connection with obtaining a protective order.  Consultant shall release only the minimum amount of Owners Data necessary to comply with law.

34.7 **Amendment as a Result of Change in Data Laws.**  The Parties in good faith agree to revisit and amend Section 34 from time to time as necessary to comply with changes to relevant Data Laws.

34.8 **Return or Destruction of Owner Data**.  Upon termination or expiration of this Agreement, Consultant shall return or destroy Owners Data in Consultant's possession or control, as requested by Owners, and provide written certification to Owners regarding the same.    At any time during the term of this Agreement Consultant will, upon Owners’ request, return or destroy Owners Data not required for Consultant’s performance of this Agreement.

34.9 **Continuing Obligation.** Consultant’s obligations under this Section entitled “Data Security” shall apply during and after termination or expiration of the Agreement.

1. **EQUAL EMPLOYMENT OPPORTUNITY**.

35.1 As part of Owners’ compliance with federal Equal Employment Opportunity and Affirmative Action regulations, we hereby notify Consultant that Owners are an equal opportunity employer that makes employment decisions without regard to race, national origin, religion, age, color, sex, sexual orientation, gender identity, disability, or protected veteran status, or any other characteristic protected by local, state, or federal laws, rules, or regulations.  Owners take affirmative steps to employ and advance in employment qualified individuals without regard to race, national origin, religion, age, color, sex, sexual orientation, gender identity, disability, or protected veteran status, or any other characteristic protected by local, state, or federal laws, rules, or regulations.  Owners further notifies Consultant that as an entity supplying goods or services to Owners, your organization may be subject and required to take action pursuant to the following laws and accompanying regulations:

 Executive Order 11246 (and its implementing regulations at 41 C.F.R. part 60-1.4(a)); and

 The Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (and its implementing regulations at 41 C.F.R. 60-300.5(a)); and

 Section 503 of the Rehabilitation Act of 1973, as amended (and its implementing regulations at 41 C.F.R 60-741.5(a)); and

Executive Order 13496 (and its implementing regulations at 29 C.F.R. part 471, Appendix A to Subpart A).

1. **THIRD** **PARTY BENEFICIARIES**.
	1. Except for the third parties described or named in the Agreement, including these General Conditions, no provision of the Agreement shall in any way inure to the benefit of any third person so as to make any such person a third party beneficiary of the Agreement or of any one or more of the terms of these General Conditions.
2. **PUBLICITY**.
	1. Consultant shall not make any announcement or release any information, publicity or photographs concerning the Agreement or the Project or any part thereof to any member of the public, press or any official body, unless prior written consent is obtained from Owners.
3. **HEADINGS**.
	1. Article headings and titles are included for the convenience of the Parties and shall not affect the meanings of the terms or conditions hereof.
4. **SEVERABILITY**.
	1. In the event any words, phrases, clauses, sentences or other provisions hereof are invalid or violate any Applicable Law, such offending provision(s) shall be ineffective to the extent of such violation without invalidating the remainder of the Agreement, and the remaining provisions of the Agreement shall be construed consistent with the intent of the Parties hereto as closely as possible, and the Agreement, as reformed, shall be valid, enforceable and in full force and effect.
5. **ENTIRE** **AGREEMENT AND WAIVER; JOINT EFFORT**.
	1. The Agreement constitutes the entire and sole agreement between the Parties concerning the subject matter of the Agreement and all prior negotiations, representations, understandings or agreements are not part of the Agreement and shall have no force or effect. Any waiver by either Party of any provision or condition of the Agreement must be in writing and signed by the Party to be bound. No such waiver shall be construed or deemed to be a waiver of any other provision or condition of the Agreement, nor a waiver of subsequent breach of the same provision or condition. Preparation of this Agreement has been a joint effort of the Parties and the resulting document (or any portion) is not to be construed more severely against one of the Parties than against the other.
6. **AUTHORITY OF OWNERS AND THEIR REPRESENTATIVES**.
	1. Owners' construction manager and its other designated representative(s) will direct and coordinate all Project contracts except those activities specified elsewhere in the Contract Documents to be directed and coordinated by a representative designated by Owners. Owners and their construction manager or such designated representative(s) at all times shall have reasonable access to the work or the shops of Consultant for inspection of the Work or any part thereof. Except as otherwise specified in the Contract Documents, such representative shall make all explanations and directions which shall be necessary to the performance of the Work required, including interpretation of the Contract Documents; however, Consultant's right of dispute resolution shall apply to all decisions and directions of such representative.
7. **SURVIVAL**.
	1. In the event of termination or expiration of the Agreement, the following sections (in their entirety) and subsections of these General Conditions shall survive any such termination or expiration: Articles 16 (Consultant Warranties), 17 (Insurance), 20 (Right to Audit), 21 (Taxes), 25 (Confidential Information), 27 (Indemnity), 28 (Infringement), 29 (Limitation of Liability), 30 (Disputes), 33 (Offshore Work and Data Transfer), 34 (Data Security), 36 (Third Party Beneficiaries), 37 (Publicity), 38 (Headings), 39 (Severability), 40 (Entire Agreement and Waiver; Joint Effort), 41 (Authority of Owners and Their Representatives) and 42 (Survival).

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