



**TERMS AND
CONDITIONS**

FOR

**GOODS
PURCHASE ORDERS**

Form 00200 (Rev. December 1, 2022)

1.0 DEFINITIONS

1.1 Defined Terms. For purposes of these Terms and Conditions and as used in the purchase order or Agreement incorporating these Terms and Conditions, the following commonly used terms are defined as follows:

- 1.1.1 “Agreement” means the form of agreement document executed by Company and the Contractor setting out, among other things, the parties and the term. Where no such form of agreement document is entered into, the Agreement shall be the purchase order issued to the Contractor by the Company which refers expressly to these Terms and Conditions. For the avoidance of doubt, a notification by the Company to the Contractor of the award of a contract shall not constitute an Agreement and shall not create any contract between the Company and the Contractor. For the further avoidance of doubt, where a purchase order and a formal form of agreement document are issued by the Company, then the formal form of agreement document shall take precedence and no contract shall be formed until that form of agreement document has been executed by both parties.
- 1.1.2 “Company” means National Grid USA Service Company, Inc. and/or one or more of its affiliates, successors and assigns identified in the Agreement.
- 1.1.3 “Contractor” means the business entity named in the Agreement as the party furnishing Goods to the Company.
- 1.1.4 “Goods” means the goods to be provided in accordance with the Agreement specifications and any associated installation services or supervision of installation services to be provided in accordance with the Agreement specifications.
- 1.1.5 “Party” means either the Company or Contractor, and any reference to “Parties” shall mean the Company and Contractor.
- 1.1.6 “Prohibited Act” means:
- (a) offering, giving or agreeing to give to the Company, any of its affiliates, or any persons associated with it or them including its or their officers, employees or agents, any gift or consideration of any kind as an inducement or reward: (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Agreement or any other contract with the Company or any of its affiliates; or (ii) for showing or not showing favor or disfavor to any person in relation to the Agreement or any other contract with the Company or any of its affiliates;
 - (b) entering into the Agreement or any other contract with the Company, any of its affiliates, or any persons associated with it or them where a commission has been paid or has been agreed to be paid by the Contractor or on its behalf, or to its knowledge, unless, before the relevant contract is entered into, particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Company;
 - (c) committing any offense: (i) under the United Kingdom’s Bribery Act 2010 (or engaging in any activity, practice or conduct which would constitute an offense under that act if such activity, practice or conduct had been carried out in the United Kingdom); (ii) under the United Kingdom’s Modern Slavery Act 2015 (or engaging in any activity, practice, or conduct which would constitute an offense under that act if such activity, practice or conduct had been carried out in the United Kingdom); (iii) under legislation creating offenses in respect of fraudulent

acts; or (iv) at common law in respect of fraudulent acts in relation to the Agreement or any other contract with the Company or any of its affiliates;

- (d) engaging in any activity, practice or conduct which does not comply with the Company's anti-bribery, anti-corruption and anti-slavery policies as notified in writing to the Contractor from time to time by or on behalf of the Company;
- (e) doing, or omitting to do, any act that will cause or lead the Company or any of its affiliates to be in breach of the Bribery Act 2010, the Modern Slavery Act 2015, and/or the policies referred to in (d) above; or
- (f) defrauding, attempting to defraud or conspiring to defraud the Company or any of its affiliates.

2.0 WARRANTY/REMEDY

- 2.1 Contractor warrants that in addition to all other warranties, express or implied in fact or law, all Goods provided by Contractor shall: 1) conform to all requirements and specifications of the Agreement; 2) if not otherwise specified be consistent with industry standards for the product specified and its intended use by Company; 3) be merchantable, new, fit for the purpose intended; 4) be of size, capability and material sufficient to meet in all respects to Company's specifications or as agreed to by Company; 5) be free from defects, design, workmanship and materials of any kind, for a period of twelve (12) months from the date placed in service or twenty-four (24) months from the date of receipt, whichever is later; 6) not infringe or violate the intellectual property rights of any third party, or violate any agreement or confidentiality obligation by which Contractor may be bound; and 7) be free of all liens, claims and other restrictions on Company's receipt, ownership and use thereof. The terms of this section shall survive termination of the Agreement.
- 2.2 If the Goods provided by Contractor or its subcontractors fail to conform to the warranties set forth above, in addition to all other remedies available at law or equity, Contractor shall, at its sole expense and at Company's option, promptly: 1) repair or replace the nonconforming Goods; 2) refund the amount of money paid by the Company for such nonconforming Goods; or 3) reimburse Company for the cost of repairing, or replacing the nonconforming Goods. If any warranty work is provided, Contractor's warranties shall recommence upon Company's acceptance of such repaired Goods and shall be in effect for the duration of the warranty period or for twelve (12) months after completion of the warranty work, whichever is later.
- 2.3 Contractor's obligations under this warranty shall survive delivery, inspection, tests, acceptance and use of the Goods.
- 2.4 In addition to all remedies permitted by law, the Company reserves the right to reject and return to Contractor for full credit and at Contractor's expense, all over-shipments and all Goods that do not conform to the Company's specifications or requirements. Further, the Company may, at its option, and without limiting its other rights, cancel all or any unfilled part of the Agreement if conforming deliveries are not made within the time specified. The Company reserves the right to charge Contractor, and Contractor shall be liable for any loss or expense incurred as the result of Contractor's failure to make timely delivery. The acceptance of any late delivery shall not constitute waiver to reject subsequent deliveries not made as originally scheduled.
- 2.5 Instructions or explanations given by Company to the Contractor to complete, clarify or give proper effect to the specifications of the Agreement will be deemed a part of the specifications.
- 2.6 Company may be required by a relevant state Department of Transportation or other authority to produce certifications regarding the origin and manufacturing of certain products covered by the Buy America requirements of 23 U.S.C. § 313 (the "Buy America Requirements"), in the event such

products are used in a project eligible for federal highway funding. In the event that Company notifies Contractor that Goods to be provided hereunder are subject to the Buy American Requirements, Contractor represents and warrants that all relevant Goods shall be compliant with the Buy America Requirements, and Contractor shall, upon request, produce a certification, signed by an officer of the Contractor, to that effect, stating that “all manufacturing processes for these steel and iron materials, including the application of coatings (unless granted a waiver pursuant to 23 CFR § 635.410), have occurred in the United States.”

- 2.7 In the event that Company notifies Contractor that a particular Goods order is subject to the Buy America Requirements as part of the RFP or ordering process for such Goods, or otherwise prior to receiving a price quotation, Contractor agrees that all quoted pricing shall be inclusive of any cost to comply with the Buy America Requirements. In the event that Company notifies Contractor of the applicability of the Buy America Requirements subsequent to receiving a quotation, and such Buy America Requirements increase Contractor’s costs, Contractor shall notify Company of such increase, and Company may, at its discretion: (a) require Contractor to comply with the Buy America Requirements and adjust the contract price to address such increased costs, or (b) request that the relevant state Department of Transportation or other authority petition the Federal Highway Administration for a waiver of such requirement, in which case the Contractor shall reasonably cooperate in making such petition.

3.0 PATENTS/GENERAL INDEMNITY

- 3.1 To the fullest extent allowed by law, the Contractor shall indemnify, defend, and save harmless the Company, its affiliates, their officers, directors, trustees, employees, agents, successors and assigns (individually an “Indemnified Party” and collectively, the “Indemnified Parties”), from any loss, damage, liability, cost, third party suit, charge, expense, or third party cause of action, whether unconditionally certain or otherwise, as they exist on the effective date of the Agreement or arise at any time thereafter, (including but not limited to reasonable fees and disbursements of counsel incurred by an Indemnified Party in any action or proceeding between an Indemnified Party and any third party) arising out of any damage or injury to property of an Indemnified Party, Contractor and/or third parties (including real property, personal property and environmental damages), persons (including injuries resulting in death), or economic damages (collectively, “Claims”), directly or indirectly caused by or arising out of or in any way connected with (i) any act or omission of Contractor in breach of the Agreement, (ii) any negligence, willful misconduct, or breach of law of the Contractor, its agents, employees, subcontractors and suppliers, (iii) any third-party claim under U.S. law pertaining to copyright infringement, trademark infringement, libel, slander, defamation, invasion of privacy, piracy, or plagiarism arising from Company’s use, consistent with the terms of the Agreement, or (iv) any equipment, property or facilities used by the Contractor, its agents, employees, subcontractors, and suppliers. The Indemnified Parties shall not be indemnified or held harmless against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Indemnified Parties.
- 3.2 Contractor shall take prompt action to defend and indemnify the Indemnified Parties against claims, actual or threatened, but in no event later than notice by Company to Contractor of the service of a summons, complaint, petition or other service of process against Company alleging damage, injury, liability, or expenses subject to the indemnification obligations set forth in Section 3.1. If such claim is subject to the foregoing indemnity obligation, Contractor shall defend any such claim or threatened claim, including as applicable, engagement of legal counsel, to respond to, defend, settle, or compromise any claim or threatened claim. Contractor shall not settle any claim, action, suit or proceeding for which it is indemnifying the Company in a manner that would impose any legal liability or financial obligation on the Company without first obtaining Company’s written consent. The obligations set forth herein shall survive completion of the Contractor’s performance under the Agreement and termination of the Agreement for any reason.

- 3.3 Furthermore, Contractor understands that, in the event that it has breached its obligations under this Section 3.0, it is responsible for any and all reasonable costs and expenses incurred by Company to enforce this indemnification provision.
- 3.4 If the Goods, any intellectual property utilized by Contractor in providing the Goods, or Company's use of the Goods (each an "Infringing Element") becomes the subject of any claim, suit, or proceeding for infringement or other intellectual property right violation, Contractor shall, at its sole expense and at Company's option: 1) secure for the Company the right to its continued use, 2) replace the Infringing Element with a substantially equivalent, non-infringing item, or 3) modify the Infringing Element so that it is non-infringing.
- 3.5 Company may participate in the defense and retain its own counsel in connection with any claim. If Contractor fails to assume control of the defense of any claim, Company may defend the claim at Contractor's cost. Company's defense of a claim does not relieve Contractor from its obligations to indemnify.
- 3.6 The obligations under this Section 3.0 shall not be limited, offset, or otherwise reduced in any way by any limitation on the Contractor's insurance or by a limitation on the amount or type of damages. In addition, the obligations under this Section 3.0 shall not be limited, offset, or otherwise reduced in any way by any compensation or benefits payable by or for the Contractor or any Subcontractor under any worker's compensation acts, disability benefit acts or other employee acts.
- 3.7 Royalties and fees for patents covering materials, articles, apparatus, devices, equipment or processes used in providing the Goods shall be included in the Contract Price. The Contractor shall satisfy all demands that may be made at any time for such royalties or fees.

4.0 RISK OF LOSS

- 4.1 Risk of loss or damage to Goods shall remain with Contractor until final acceptance by Company.

5.0 TIME OF PERFORMANCE

- 5.1 **Time of performance is of the essence.** If deliveries are not made or services are not performed on schedule, the Company shall, in addition to any other rights it may have, at Contractor's expense, purchase elsewhere or require expedited routing and/or additional manpower to return to schedule. Contractor shall notify the Company orally and then in writing of any anticipated delays; however, such notification shall not relieve Contractor of any of its obligations or affect any of Company's available remedies.

6.0 FORCE MAJEURE

- 6.1 Any delay of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by unprecedented weather conditions, fire, explosion, riot, war, strike by the Company or its affiliates' employees, court injunction or order, federal and/or state law or regulation, or order by any federal or state regulatory agency, but only to the extent that: 1) such events are beyond the reasonable control of the party affected, 2) such events were unforeseeable by the affected party and the effects were beyond its reasonable efforts to prevent, avoid or mitigate, 3) said affected party uses every reasonable effort to prevent, avoid or mitigate the effects, 4) prompt written notice of such delay be given by such affected party to the other; and 5) the party affected uses its best efforts to remedy the resulting effects in the shortest practicable time. Upon receipt of said notice, if necessary, the time for performing the affected activities shall be extended for a period of time reasonably necessary to overcome the effect of such delays. Such extension shall be the sole remedy and compensation for each force majeure event. Notwithstanding the foregoing, the Company shall have the right to terminate the Agreement under Section 14.0.

7.0 ACCEPTANCE OF GOODS/INSPECTION AND AUDIT

- 7.1 Company shall have the right to inspect and test any Goods covered by the Agreement and at no cost to the Company, the right to inspect and/or audit any of Contractor's or its subcontractors' inspection records and associated costs pertaining to the Agreement. Such audits may be performed by either or both Company's employees or professional auditing firms chosen by Company. In the event the Goods or associated costs are found to be deficient or not in accordance with the Agreement, Company shall be entitled to seek reimbursement for such audit costs.
- 7.2 In addition to other remedies provided by law or equity or by the Agreement, the Company reserves the right to refuse any Goods or cancel all or any part of the Agreement if Contractor fails to deliver all or any part of the Goods or services in accordance with the terms and conditions of the Agreement. Acceptance of any part of the Goods covered by the Agreement shall not bind the Company to accept any future shipments, or deliveries of Goods nor deprive it of the right to return any Goods already accepted by Company at Contractor's expense.
- 7.3 Company shall advise Contractor of errors, or variations from the requirements of the Agreement, and of defects in the Goods, but it is expressly agreed that any omission on Company's part to point out any such errors, variations, or defects or to provide any instructions or explanations will not give the Contractor any right or claim against Company, and shall not in any way relieve the Contractor from its obligation to provide the Goods in accordance with the Agreement.

8.0 PRICE/PAYMENT/SUPPLIER SELF SERVICE

- 8.1 Company will compensate Contractor for Goods purchased on the basis of prices stated in the Agreement.
- 8.2 Standard payment terms are "2% 10, Net 60." The Company shall pay invoices upon 1) receipt and acceptance of the Goods or any agreed upon parts thereof, or 2) receipt by Company's Accounts Payable Department of a proper invoice, whichever is the later. Payment shall not relieve Contractor from any responsibilities or obligations under the Agreement, nor shall the Company's payment constitute acceptance or a waiver of any claim arising hereunder.
- 8.3 Company reserves the right to utilize a variety of payment channels, including but not limited to Virtual Card, ACH, Ghost Cards and P-Cards. Contractor agrees that it will not impose a surcharge on Company's payment. In the performance of this Agreement during which Contractor will accept, store, use, process, transmit or have access to payment account, cardholder or transaction data belonging to Company, Contractor shall (a) comply with the Payment Card Industry Data Security Standard ("PCI-DSS"), as set forth at <https://www.pcisecuritystandards.org/> and as may be updated from time to time by the Payment Card Industry Security Standards Council, and (b) upon request by Company not more than once annually, provide Company an Attestation of Compliance (AOC), certifying Contractor's compliance with PCI-DSS for purposes of the Agreement.
- 8.4 In cases where freight is added as a line item to an invoice or otherwise, Company will not accept markups of any form on the freight portion of an invoice. All freight must be invoiced at the Contractor's cost. Company reserves the right to require the Contractor to secure, at Contractor's expense, original freight invoices for verification of the freight charges added to an invoice. Company reserves the right to withhold payment on all invoices where freight discrepancies occur, or the Contractor fails to supply validation of freight charges.
- 8.5 Company will not accept any restocking charges for the following returns to the Contractor: (1) defective materials, (2) over shipments, (3) material not as specified, (4) materials not requested, (5) shipments made to other than stipulated location, or (6) unauthorized delivery in advance of specified dates.
- 8.6 Contractor agrees either it has already completed National Grid's Supplier Self Service Training, or that it will do so promptly after execution of the agreement, and in any event prior to sending

Company any invoices under the agreement. Self Service Training may be accessed by Contractor on Company's website under the Procurement tab on the following URL:

http://www2.nationalgridus.com/corpinfo/purchasing/Contractor_self_service_training_all_all.jsp

Contractor agrees that it shall use Company's SUS Portal, as indicated in the Self Service Training, unless otherwise directed by Company. Through the training and/or Contractor enrollment process, Contractor will access the SUS Portal using user identification and password. Without limiting the foregoing, Contractor agrees that it will use the SUS Portal to receive, review and confirm purchase orders, view and create shipping and delivery notices, view agreement releases and goods receipts, view and create confirmations, review or create invoices or credit memos, and make changes in Contractor information. Contractor acknowledges and agrees that Company reserves the right to insist that any Contractor inquiry, communication, or document that can be handled by the SUS Portal be directed through such portal, and, without limiting the foregoing, that Company may disregard invoices until they have been properly delivered through the SUS Portal.

- 8.7 Unless otherwise specified in the Agreement, the Contractor shall submit all invoices for executed services and delivered Goods at the start of each month for any such Goods and services provided during the preceding month. If Contractor fails to invoice Company for any amount within six (6) months of the later of (i) the month in which the Goods and services in question were rendered to Company or the expense incurred, or (ii) the date the Contractor has the right to issue an invoice to Company for payment, the Contractor shall be deemed to have waived any right it may otherwise have to invoice for and collect such amount.

9.0 AGREEMENT CHANGES

- 9.1 **Change Procedure.** The Company shall have the right to initiate changes in the Goods ordered by Company, and such changes shall be agreed to by Company and Contractor. Contractor shall review the proposed changes and advise Company of any change in price. No change in Goods shall bind the parties until the Company and Contractor execute and acknowledge an amendment to the Agreement setting forth the terms of any such change or amendment, including but not limited to any adjustment in the price, if not provided under the Agreement, and any adjustment to the schedule for delivery of Goods. The Agreement cannot be changed, altered, modified or discharged orally.

10.0 WITHHOLDING PAYMENT

- 10.1 Company may withhold payment, in whole or in part, to the extent and for the time reasonably necessary, in Company's opinion, to protect Company from loss because of 1) defective Goods, 2) third-party claims filed or reasonable evidence indicating a probability of filing of such claims, 3) reasonable evidence that the Goods will not be supplied within the time period stated in the Agreement, 4) damage to Company or a third party for which Contractor is responsible, 5) claims or liens filed in connection with the Goods, or 6) persistent failure to provide the Goods in accordance with the Agreement. In addition to the right to delay payment as set forth above, Company shall have the right to require that Contractor shall, in any event, take all necessary steps, at its sole cost and expense, to cause any lien filed against the Company's property to be satisfied on the record within ten (10) days from Company's notice that such lien has been filed.

11.0 TAXES

- 11.1 The Agreement will provide instructions on the collection of sales taxes. The Contractor is **NOT** required to collect sales taxes on the Agreement price and, therefore, shall not apply sales tax when invoicing. The Company will provide the Contractor with the appropriate sales tax exemption document(s) or provide the Company's Direct Payment Permit number which has been issued to the Company to make direct payment of sales and use taxes to the appropriate Taxing Jurisdiction in lieu of payment to the Contractor. The Company will provide documentation of such as requested by Contractor.

12.0 SHIPMENT/TITLE

- 12.1 **Shipment.** Contractor shall select the best practical mode of transportation unless otherwise specified in the Agreement. Goods shall be properly packed to withstand the mode of transportation to avoid damages to the Goods.
- 12.2 **Title.** Contractor warrants and shall take all action necessary to ensure that all Goods are delivered to Company with good, clear and marketable title, free from any defects, liens, encumbrances and claims of any kind. Unless otherwise specified in the Agreement, title to Goods furnished hereunder shall pass to Company upon delivery thereof F.O.B. Destination.

13.0 INSURANCE

- 13.1 **Insurance Requirements.** From the commencement of the provision of Goods, through acceptance or longer where specified below, Contractor shall provide and maintain at its own expense insurance policies issued by reputable insurance companies acceptable to the Company which meet or exceed the requirements listed herein:

- 13.1.1 Workers Compensation and Employers Liability Insurance as required by the applicable law. Coverage shall include the U.S. Longshoremen’s and Harbor Workers Compensation Act and the Jones Act when applicable;
- 13.1.2 Public Liability Insurance, covering all operations to be performed under the Agreement, with minimum limits of:

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

This policy shall include Contractual Liability and Products-Completed Operations coverage. If the Products-Completed Operations coverage is written on a claims-made basis, coverage shall be maintained continuously for at least two (2) years after provision of the Goods. The Company and its parent and affiliate companies (“Insured Parties”) shall be included as additional insureds in order to provide the same protection under Contractor’s public liability policy as other insured automatically covered.

- 13.1.3 Cyber Liability Insurance, (if applicable), either purchased separately or endorsed to Professional Liability/Errors & Omissions, covering liability arising from or out of the Goods and/or services that involve the use and access of data and/or the need for the Contractor to use security measures and requirements under this Agreement at minimum limits of \$10,000,000 “per claim”. Coverage shall include, but not be limited to, the following, as applicable - Internet and network liability (providing protection against liability for system attacks; denial of service attacks or loss of service; introduction, implantation, or spread of malicious software code; and unauthorized access and use), infringement of privacy or intellectual property rights, breach mitigation and regulatory coverage, internet advertising and content offenses, defamation, errors or omissions in software and/or systems development, implementation and maintenance. Waiver of Subrogation required from this policy in favor of Company and its affiliates.
- 13.1.4 Other insurance as required and as mutually agreed upon by the Company and Contractor.
- 13.1.5 Self-Insurance: Proof of qualification as a qualified self-insurer, if approved in advance in writing by Company, will be acceptable in lieu of securing and maintaining one or more of the coverages required in this Section 13.0.

- 13.1.6 Contractor shall waive all rights of recovery against the Insured Parties for any loss or damage covered under those policies referenced in this Section 13.0, or for any required coverage that may be self-insured by Contractor.
- 13.2 **Subcontractors.** In the event that Contractor uses contractors in connection with the provision of the Goods, Contractor shall require all such contractors provide the same insurance coverages as shown in subsections 13.1.1 and 13.1.2.
- 13.3 **Certificate(s) of Insurance.** Prior to providing the Goods, Contractor shall promptly provide the Company with Certificate(s) of Insurance for all coverages required in the Agreement at the address National Grid USA, Attention Risk & Insurance Department, 300 Erie Blvd West, A-4, Syracuse, NY 13202. Policies shall provide that at least 30 days prior written notice shall be given to the Company in the event of any cancellation or diminution of coverage and certificates shall outline the amount of deductibles or self-insured retentions which shall be for the account of the Contractor. Such deductibles or self-insured retentions shall not exceed \$100,000 unless agreed to by the Company's Risk & Insurance Department.
- 13.4 **Reservation of Rights.** If any policy should be canceled before final payment by the Company to the Contractor and the Contractor fails immediately to procure other insurance as specified, the Company reserves the right to procure such insurance and to deduct the cost thereof from any sum due the Contractor under the Agreement or to invoice Contractor.
- 13.5 **Indemnification Coordination.** Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from its work under the Agreement, or limiting, diminishing, or waiving Contractor's obligation to indemnify, defend and save harmless Company and the Indemnified Parties in accordance with these Terms and Conditions.
- 13.6 **Compliance.** These requirements are in addition to any other insurance requirements which may be required elsewhere in the Agreement. Contractor shall comply with any governmental and/or site specific insurance requirements even if not stated herein.

14.0 SELLER'S DEFAULT/TERMINATION

- 14.1 Notwithstanding any other provision of the Agreement, the Company may terminate this Agreement for cause, in whole or part, without prejudice to any other right or remedy the Company may have, upon written notice to Contractor, if: 1) Contractor should be adjudged bankrupt; 2) Contractor should make an assignment for the benefit of its creditors; 3) Contractor should fail to comply with any terms and/or conditions of the Agreement, or 4) Contractor should be experiencing a resource problem which threatens to have a substantial adverse effect upon the delivery schedule or price hereunder. Company may thereupon contract with others to obtain equivalent goods to the Goods affected by the notice. The Contractor shall pay any increased cost incurred in obtaining such equivalent goods. The increased cost will be determined by the amount paid or expended for such equivalent goods over and above the prices herein specified and together with the Company's administrative and overhead costs. If the amount that Company is required to pay or expend for obtaining such equivalent goods is less than the prices herein specified, the Contractor hereby waives any and all claims to such difference as compensation to Company for its added expense and effort to obtain such equivalent Goods.
- 14.2 Notwithstanding any other provision of the Agreement, the Company may terminate the Agreement for its convenience, in whole or part, at any time by written notice to Contractor. Company shall only pay for those Goods actually delivered and accepted by the Company.

15.0 ASSIGNMENT

- 15.1 Contractor shall not assign the Agreement, or any of the moneys to become due and payable under the Agreement, or subcontract the whole or any part of the work or services, without first having obtained Company's written consent to such assignment or subcontract. Any such assignment or subcontract for which Company's written consent is not obtained will be null and void.

16.0 RIGHTS, CLAIMS AND DISPUTES

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

17.0 COMPLIANCE WITH LAWS

- 17.1 Contractor shall, in connection with any Goods provided by Contractor hereunder, comply with all applicable federal, state and local laws, ordinances, rules, regulations, codes, permits, licenses, authorizations, and orders of any governmental body, agency, authority, or court having jurisdiction over the Company or the supply of the Goods ("Laws"),
- 17.2 In connection with any Goods provided by Contractor hereunder, Contractor shall and shall provide that its subcontractors, agents, and representatives shall, at all times: 1) strictly comply with Company's safety and environmental standards, rules, regulations, directives, and procedures, including, without limitation, Company's Contractor Safety Requirements and Contractor Environmental Requirements, and with any and all applicable federal, state, municipal, and local laws, rules, regulations, codes, and ordinances related to employee and public health, safety, and/or the environment (as in force upon the date of the Agreement and as in the future passed, enacted, directed, or amended), collectively, ("Standards,") and 2) conduct all operations in a manner to ensure the safety of all personnel, the general public, and the protection of the environment and so as to avoid the risk of injury, death, loss, theft, or damage by accident, vandalism, sabotage, or any other means. In cases where one or more conflicting Standards may be applicable, Contractor shall comply with the most stringent applicable Standard.
- 17.3 Contractor shall indemnify and hold harmless the Indemnified Parties from any loss, damage, claims or proceedings resulting from the failure of Contractor or its subcontractors to comply with Laws and Standards.
- 17.4 Contractor warrants that it has not offered or given and will not offer or give to Company or its affiliates, or any of their officers, directors, employees, agents, trustees, successors or assigns ("Purchasing Parties") any gratuity, or any kickback within the meaning of the Anti-Kickback Act of 1986 in order to secure any business from or influence the Purchasing Parties with respect to the terms, conditions or performance of any contract with or purchase from the Company or its affiliates.

- 17.5 Contractor shall, in connection with any Goods provided by Contractor hereunder, comply with Company's Diversity Program requirements. Such requirements include but are not limited to completion and return of the "Contractor Diversity Bid Form," quarterly reporting on Contractor's utilization of diversified sellers, and maintenance of certifications from accredited institutions on file which files will be subject to Company audit.
- 17.6 Contractor shall comply with Company's disclosure reporting requirements as defined in Company's policies and procedures as set forth in this Agreement, and as such policies and procedures may be amended by Company and notified to Contractor from time to time.

18.0 UTILIZATION OF SMALL BUSINESS CONCERNS

- 18.1 It is the policy of the United States that small business concerns, veteran-owned small business concerns, service disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.
- 18.2 If the Contractor is not a small business concern and the total contract value is in excess of \$700,000 (or \$1,500,000 if the contract involves construction of any public facility), Contractor agrees that it will have and maintain a subcontracting plan consistent with supporting the policy referenced in section 18.1, to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.
- 18.3 *Definitions.* As used in this contract—
- "HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
- "Service-disabled veteran-owned small business concern"—
- (1) Means a small business concern—
- (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
- (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- (2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. § 101(2), with a disability that is service connected, as defined in 38 U.S.C. § 101(16).
- "Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.
- "Small disadvantaged business concern" means a small business concern that represents, as part of its offer that—
- (1) It has received certification as a small disadvantaged business concern consistent with 13 CFR § 124, Subpart B;
- (2) No material change in disadvantaged ownership and control has occurred since its certification;

- (3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR § 124.104(c)(2); and
- (4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

“Veteran-owned small business concern” means a small business concern—

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. § 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern—

- (1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

- 18.4 Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

19.0 ENVIRONMENTAL COMPLIANCE

- 19.1 **Contractor’s Responsibility.** Contractor shall comply fully with all applicable federal, state and local laws, ordinances, rules, regulations and permits for the protection and preservation of the environment, as may be amended from time to time, and all applicable environmental policies and practices prescribed by Company, including without limitation, the Resource Conservation and Recovery Act, the Hazardous Materials and Transportation Act, the Occupational Safety and Health Act of 1970 ("OSHA"), the New York Environmental Conservation Law, regulations of the Environmental Protection Agency, the Department of Transportation and the New York Department of Environmental Conservation (when applicable for the jurisdiction) issued pursuant thereto, and the terms of Company's Special Conditions of Contract - Environmental, if incorporated in the Agreement by Company. Contractor shall impose the requirements of this Section 19.0 upon its subcontractors and suppliers.
- 19.2 **Safety Data Sheets.** Contractor shall provide to Company and post in a conspicuous location at the work site, safety data sheets ("SDS") as required for products used in Contractor’s performance under the Agreement. Contractor shall post, control and disseminate SDS in accordance with Company's Hazard Communication Program National Grid Safety Procedure F-610 and the applicable edition of OSHA Standard No. 1910.1200. Contractor shall provide periodic updates of the SDS documentation and copies thereof shall also be retained at the work site and shall be readily available to all Contractor’s personnel engaged in manufacturing Goods. The cited standard and policy are available through Company's Safety Department and are incorporated by reference in these Terms and Conditions.

20.0 EQUAL EMPLOYMENT OPPORTUNITY

- 20.1 Contractor shall comply with all applicable federal, state and local anti-discrimination laws, the standards and regulations issued there under and the amendments thereto, including Executive Order 11141 relating to age discrimination, Executive Order 11246 relating to equal employment opportunity, Executive Order 11625 relating to minority business enterprise, Executive Order 11701 relating to employment of veterans and Executive Order 11758 relating to handicapped employment. The aforementioned are incorporated herein as if set forth herein verbatim. Contractor agrees to comply with the Human Rights Law of the State of New York (Article 15 of the Executive Law), if applicable.
- 20.2 All subcontracts and agreements that the Contractor enters into to provide the Goods under the terms of the Agreement shall obligate such subcontractors to comply with the foregoing provisions.

21.0 JURISDICTION AND GOVERNING LAWS

- 21.1 Unless other governing laws and/or other jurisdictions are specifically established in the Agreement, the Agreement shall be deemed to be executed in the State of New York and shall be interpreted and enforced according to the Laws of the State of New York without regard to its conflicts of law principles.
- 21.2 Unless otherwise specifically established in the Agreement, only the courts of New York shall have jurisdiction over the Agreement and any controversies arising out of the Agreement; any controversies arising out of the Agreement shall be submitted only to the courts of New York; the Contractor hereby submits to the courts of New York for the purposes of interpretation and enforcement of the Agreement.
- 21.3 Contractor hereby waives personal service by manual delivery and agrees that service of process on Contractor in any action arising out of the Agreement may be made by registered or certified mail, return receipt requested, directed to Contractor at its address set forth on the Agreement.

22.0 ENTIRE AGREEMENT

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

23.0 SEVERABILITY

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

24.0 WAIVER

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

25.0 PROVISIONS REQUIRED BY LAW DEEMED INSERTED

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

26.0 RIGHTS AND REMEDIES; COMPANY LIABILITY

- 26.1 The rights and remedies of the Company herein shall not be exclusive and are in addition to any other rights or remedies provided by law or equity.
- 26.2 The Company shall in no event be liable to Contractor for any incidental, consequential, special, contingent, or punitive damages in connection with the Agreement, including, without limitation, loss of profits.
- 26.3 All provisions related to warranty, indemnification, confidentiality and proprietary rights shall expressly survive termination or expiration of the Agreement.

27.0 CONFIDENTIALITY AND OWNERSHIP

- 27.1 The Parties hereby acknowledge that during the course of their participation in a bid and/or selection process and in the performance of the requirements of the Agreement, they may be furnished with or exposed to information that is proprietary and confidential to the other Party and/or its subsidiaries and affiliates ("Confidential Information"). Confidential Information shall include but shall not be limited to information concerning pricing, terms and conditions, customers, employees, facility locations, techniques, methods, computer programs, software, drawings, maps, plans, and data relating to National Grid and/or its other subsidiaries and affiliates.
- 27.2 The Contractor agrees that the Contractor shall (i) use such any Confidential Information only in connection with its participation in a bid and/or selection process or the requirements performed under the Agreement and (ii) shall not disclose such Confidential Information to third parties or use such Confidential Information for any other purpose without the prior written consent of an authorized representative of Company.
- 27.3 Contractor may disclose Confidential Information to its partner(s), employee(s), agent(s), vendor(s), contractor(s), subcontractor(s), or any other party employed by Contractor if and only if (i) such disclosure is necessary in order to perform the work and/or service under the Agreement; and (ii) the party to whom the Confidential Information will be disclosed has executed and delivered to Company a Non-Disclosure Agreement. If Contractor has any question about whether information is Confidential Information, it shall contact Company prior to disclosing such information for a determination as to its proprietary status.
- 27.4 Upon termination of the Agreement, the Contractor shall immediately return any Confidential Information, including without limitation any drawings, maps, or electronic data or copies thereof, to Company.
- 27.5 Both Parties acknowledge that the breach of the Contractor's obligations under this provision will result in irreparable harm to Company and/or its subsidiaries and affiliates. Any breach of these provisions by the Contractor shall entitle Company and/or its subsidiaries and affiliates, to make use of any and all available remedies, at law and in equity including, but not limited to, injunctive relief.
- 27.6 Compliance with Law. If either Party is required by law to disclose Confidential Information of the other Party (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demands, regulation, statute or otherwise), the Party required to make such disclosure will (i) notify the other Party and provide the other Party the opportunity to review the

Confidential Information, and (ii) provide the other Party the opportunity to seek a protective order or other appropriate remedy. In the event that a protective order or other remedy is not obtained or is not pursued within a reasonable period of time, the Party required to make disclosure or such Party's representatives will furnish only that portion of the Confidential Information that it is legally required to disclose and the Party required to make disclosure will request that confidential treatment be accorded to the Confidential Information by relevant third parties.

- 27.8 Treatment of Otherwise Publicly Available Documents. Notwithstanding anything to the contrary in this Section 27.0, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through disclosure by the receiving Party; (ii) is independently developed by the receiving Party; or (iii) becomes available to the receiving Party without restriction from a third party, provided that such third party is not bound by a confidentiality agreement with the disclosing Party or its representatives.
- 27.9 Term of Confidentiality. The obligations set forth in this Section 27.0 shall survive expiration or termination of this Agreement for a period of five (5) years.
- 27.10 Notwithstanding any other provision of this Agreement, in the event the Parties have executed a Non-Disclosure Agreement ("NDA") that concerns the subject matter of this Agreement, including any NDA that is attached to this Agreement (as a schedule, exhibit, or otherwise), or made a part of the Agreement by reference, such NDA shall govern the exchange of confidential information between the parties in relation to this Agreement, i.e. Information (as defined in such NDA), and, notwithstanding any terms to the contrary in the NDA regarding term or expiration, shall remain in full force and effect for the duration of this Agreement, or such for longer time as the NDA may provide.

28.0 NOTICES

- 28.1 All notices, demands, requests, and other communications required or desired to be given hereunder must be in writing and sent by United States registered mail, return receipt requested, or by nationally recognized overnight carrier, and addressed to the person or position identified on the Agreement at its address set forth in the Agreement and in the case of a notice given to the Company, Contractor shall also send a copy to Assistant General Counsel, Commercial Legal, National Grid, 170 Data Drive, Waltham, Massachusetts, 02451.

29.0 PREVENTION OF CORRUPTION, BRIBERY AND SLAVERY

- 29.1 The Contractor shall conduct itself in an ethical manner and provide services to the highest ethical standards. The Contractor shall not be a party to the following: bribery of any kind; collusion with other contractors, regulatory agencies or other third parties; provision of enticements to the Company's officers, directors, employees, agents, successors, assigns, and servants in any form including, but not limited to, gifts, gratuities or other benefits. Contractor agrees to comply with the provisions of the Company's Global Supplier Code of Conduct. Without limiting the foregoing, the Contractor represents and warrants to the Company that the Contractor, its Subcontractors, its and their Affiliates, employees, officers, agents and shareholders, have not committed and shall not commit any Prohibited Act.
- 29.2 If the Contractor, any subcontractor, any of its or their affiliates, employees, officers, agents or shareholders, commit any Prohibited Act, then the Company shall be entitled to act in accordance with Sections 29.3 to 29.7 (inclusive) below.
- 29.3 If a Prohibited Act is committed by the Contractor, any of its affiliates, or any of its or their employees, officers, agents or shareholders not acting independently of the Contractor and its affiliates, then the Company shall be entitled to terminate the Agreement for cause under Section

14.1 by giving written notice to the Contractor, specifying the date on which the Agreement shall terminate.

- 29.4 If a Prohibited Act is committed by an employee or agent of the Contractor or of any of its affiliates, acting independently of the Contractor and its affiliates, then the Company may give written notice to the Contractor of termination of the Agreement for cause, under Section 14.1, and the Agreement will terminate 10 business days after the date of such notice, unless, within such 10 business day period, the Contractor terminates (or arranges for the termination of) such employee's employment or agent's engagement and (where applicable) ensures that the performance of such employee's or agent's obligations in relation to the Agreement are performed by another person.
- 29.5 If a Prohibited Act is committed by a subcontractor or by an employee or agent of that subcontractor not acting independently of that subcontractor, then the Company may give written notice to the Contractor of termination of the Agreement for cause, under Section 14.1, and the Agreement will terminate 10 business days after the date of such notice, unless, within such 10 business day period, the Contractor terminates the relevant sub-contract and ensures that the performance of the subcontractor's obligations in relation to the Agreement are performed by another person.
- 29.6 If the Prohibited Act is committed by an employee or agent of a subcontractor acting independently of that subcontractor, then the Company may give written notice to the Contractor of termination of the Agreement for cause, under Section 14.1, and the Agreement will terminate 10 business days after the date of such notice, unless within such 10 business day period, the subcontractor terminates the employee's employment or agent's engagement and ensures that the performance of that employee's or agent's obligations in relation to the Agreement are carried out by another person.
- 29.7 If the Prohibited Act is committed by any person not specified in Section 29.2 to 29.6 (inclusive) above (or by any person specified in such conditions but acting in a capacity not specified in such conditions) then the Company may give written notice to the Contractor of termination of the Agreement for cause, under Section 14.1, and the Agreement will terminate 10 business days after the date of such notice, unless, within such 10 business day period, the Contractor (a) arranges for the termination of such person's employment or engagement, and the appointment of their employer or the person who engaged them (where not employed or engaged by the Contractor or any relevant subcontractor) and (b) ensures that the performance of that person's obligations in relation to the Agreement are performed by another person.
- 29.8 The Company shall specify, in any notice of termination under this Section 29.0 the general nature of the relevant Prohibited Act; and the identity of the party whom the Company believes has committed such Prohibited Act.
- 29.9 Without prejudice to the Company's other rights and remedies, the Contractor shall indemnify the Indemnified Parties in full and on demand against all losses, liabilities, costs, claims and expenses incurred directly or indirectly by the Company as a result of the performance of any Prohibited Act by the Contractor, any subcontractor, any of its or their affiliates, employees, officers, agents or shareholders, or any Contractor personnel in connection with the Agreement, its subject matter or any agreements (including any sub-contracts of whatever tier) relating to the Agreement.
- 29.10 Without prejudice to the other provisions of this Section 29.0, the Contractor shall ensure that:
- 29.10.1 all Contractor personnel are fully aware of the Company's policies on anti-bribery, anti-corruption, and anti-slavery, as provided in writing to the Contractor from time to time by or on behalf of the Company and that all subcontractors and agents (of whatever tier) are engaged upon terms which contain provisions in relation to prevention of bribery, corruption and slavery which are no less onerous than this Section 29.0; and
- 29.10.2 it has and shall maintain in place throughout the term of the Agreement, its own policies and procedures, (including adequate procedures under the Bribery Act 2010 and the

Modern Slavery Act 2015), to ensure compliance with the Company's policies on anti-bribery, anti-corruption, and anti-slavery notified in writing to the Contractor from time to time by or on behalf of the Company, and will enforce them where appropriate.

- 29.11 The termination of the Agreement pursuant to this Section 29.0 shall entitle the Company and each of its affiliates to terminate any other contracts between the Contractor and the Company, or the Contractor and such affiliate (as appropriate) on written notice to the Contractor, under their respective termination-for-cause provisions.
- 29.12 Notwithstanding Sections 16.0 and 21.0, any dispute relating to the interpretation of this Section 29.0; or the amount or value of any gift, consideration or commission, shall be determined by the Company, and the Company's decision shall be final and conclusive.