

**FIRSTENERGY SERVICE COMPANY – GENERAL TERMS AND CONDITIONS
FOR PURCHASE OF MATERIALS AND EQUIPMENT**

ARTICLE I – DEFINITIONS As used in this Agreement, "Purchaser" means FirstEnergy Service Company for itself and/or as an authorized agent of the affiliate company or companies set forth on the face of the Request for Proposal and/or Purchase Order attached hereto for which the services as specified elsewhere herein shall be performed hereunder. If more than one company is identified as Purchaser, the liability of each company named shall be several and not joint and shall be limited to such company's interest in this Agreement, as identified on the Request for Proposal and/or Purchase Order.

ARTICLE II – TERMS OF AGREEMENT

- A. **Agreement.** The terms and conditions set forth in this document, together with the Request for Proposal and/or Purchase Order and all attachments, exhibits, revisions, and supplements thereof, shall constitute the agreement between Purchaser and Supplier (the "Agreement"). In case of any error, inconsistency or omission in the various documents of the Agreement, the matter will be submitted immediately to Purchaser, without whose decision said discrepancy shall not be adjusted by Supplier.
- B. **Offer and Acceptance.** Supplier's acknowledgement, commencement of performance to furnish the materials, equipment, or services which are the subject of this Agreement, or any conduct by Supplier which recognizes the existence of a contract pertaining to the subject matter hereof shall constitute acceptance by Supplier of this Agreement and all of its terms and conditions. Acceptance of this Agreement is expressly limited to Supplier's assent to all of the terms and conditions of this Agreement. Additional or different terms provided in Supplier's acceptance of Purchaser's offer which vary in any degree from any of the terms herein or expressly referenced on the face of the Request for Proposal and/or Purchase Order herewith shall be deemed material and are hereby objected to and rejected. If this Agreement shall be deemed an acceptance by Purchaser in response to an offer by Supplier and if any terms herein are additional to or different from any terms of such offer, then the issuance of this Agreement by Purchaser shall constitute an acceptance expressly conditioned upon Supplier's assent to all of the terms and conditions of this Agreement. Additional or different terms in any acknowledgement, invoice, or communication submitted by Supplier, or any attempt by Supplier to vary in any degree any of the terms of this Agreement, unless expressly agreed to by Purchaser, shall be deemed material and are hereby objected to and rejected. Any such terms proposed by Supplier, whether by offer or acceptance, shall be void unless expressly agreed to in writing by Purchaser.
- C. **Integration; Modification.** This Agreement sets forth the entire agreement of Purchaser and Supplier concerning the subject matter hereof. No other agreements or understandings, whether written or oral, whether express or implied, shall be binding on Purchaser and Supplier. No amendment, modification, or rescission of this Agreement shall be enforceable unless the same is in writing and signed by the party against whom the terms of such amendment, modification, or rescission are sought to be enforced.
- D. **Non-Exclusivity.** This Agreement is not exclusive, and Purchaser may at its sole discretion contract with others to perform such work as is herein contemplated, or may perform such work with its own forces.
- E. **Audit.** Purchaser shall have the right to audit books and records of Supplier upon reasonable notice for the purpose of confirming the amount due Supplier under this Agreement.

ARTICLE III-SHIPMENT AND DELIVERY Packing lists in duplicate will be furnished with each shipment. Order identification information specified by Purchaser (such as the order number and project system identification number) shall appear on all invoices, packages, shipping cases, shipping documents, and correspondence. Unless otherwise specified on the face of the attached Request for Proposal and/or Purchase Order, shipments shall be made F.O.B. destination. Title and risk of loss of goods passes to Purchaser upon acceptance of delivery. THE OBLIGATION OF SUPPLIER TO MEET THE DELIVERY DATES, SPECIFICATIONS AND QUANTITIES SET FORTH HEREIN IS OF THE ESSENCE OF THIS ORDER. Supplier shall notify Purchaser immediately of any delay in delivery or shipment. Shipments in greater or lesser quantity than ordered may be returned at Supplier's expense, unless written authorization is issued by Purchaser. Goods which are delivered in advance of schedule may, at Purchaser's option, (a) be returned at Supplier's expense (b) have payment therefor withheld by Purchaser until the date that goods are actually scheduled for delivery, or (c) be placed in storage for Supplier's account until delivery dates specified herein.

ARTICLE IV – CONTRACT PRICE AND PAYMENT Invoices shall be submitted in a form acceptable to Purchaser to the address specified in the Purchase Order, except that invoices submitted electronically will have additional requirements. Supplier shall forward to Purchaser, with the invoice, original and duplicate bills of lading or express receipts, signed by the carrier, for materials and/or equipment shipped. Unless otherwise set forth in the Request for Proposal/Purchase Order or any attachment thereto, Payment Terms are 2%10 Net 45. Payment dates shall be calculated from the date of receipt of invoice or acceptance of the material by Purchaser, whichever is later. All payments are made conditional upon acceptance by Purchaser of the goods called for hereunder. Except to the extent otherwise provided herein, Supplier shall pay all taxes, duties, levies, and all other fees and charges imposed by any governmental entity with respect to this Agreement and the materials, equipment, and services provided hereunder. Unless otherwise set forth herein, no charge will be allowed for boxing, packing, crating, or carting, or any other additional charges in excess of the prices stated hereunder. All amounts referenced herein are in United States dollars.

Set-Off. Purchaser shall be entitled at all times to set-off any amount owing from Supplier to Purchaser or any affiliate of Purchaser against any amount payable by Purchaser hereunder, and in no event shall Purchaser be liable for interest.

Electronic Invoices. If it is reasonably able, Supplier shall utilize Purchaser's then-current Electronic Invoice Presentment and Payment program to submit invoices and receive payment electronically from Purchaser.

ARTICLE V – INTELLECTUAL PROPERTY Supplier warrants that the goods or services supplied hereunder do not and will not infringe on or misappropriate any United States or foreign patent, copyright, trademark, or other intellectual property rights of any third party. In case such goods or services now or in the future constitute patent, copyright or trademark infringement, Purchaser may, at its sole option, pursue any remedy or remedies available at law or in equity, including, without limitation, requiring Supplier to either procure for Purchaser the right to continue using such goods, modify them so that they become non-infringing and/or remove them and refund the total purchase price thereof.

ARTICLE VI – WARRANTY Supplier warrants that all goods and services furnished by Supplier hereunder will fully conform with the terms of this Agreement, and with all drawings, samples, and other descriptions of Purchaser, will be of good design, material, and workmanship, free from defects, and fit for the ordinary purposes for which such materials and equipment are used or intended and for any particular purpose of Purchaser of which Supplier is aware, and produced or supplied in compliance with applicable law. Unless otherwise specified and agreed to in writing by Purchaser, the foregoing warranties shall continue in effect for a period of two (2) years from the date of initial operation of the equipment or, in the case of non-operational materials and equipment, from the date of performance of the work and final acceptance of the same by Purchaser. "Date of initial operation of the equipment" means the day on which the equipment is first operated as an integral part of Purchaser's site. Supplier agrees that all of its warranties shall survive performance and acceptance of and payment for the materials and equipment provided hereunder and shall inure to the benefit of Purchaser, and to all subsequent purchasers of the goods and services provided hereunder. If any materials, equipment, and services provided hereunder do not comply with the foregoing warranties, Purchaser may, at its sole option, and in each case at Supplier's sole expense: (1) reject such materials, equipment, and services; (2) require Supplier to repair or correct such materials, equipment, and services as necessary to render them in conformance with the foregoing warranties, and consistent with Purchaser's time schedule; (3) return such materials, equipment, and services and receive a full refund of the contract price; or (4) make any corrections required to cause such materials, equipment, and services to fully fulfill the foregoing warranties and charge Supplier for the costs incurred by Purchaser thereby. Supplier shall reimburse Purchaser for all expenses reasonably

incurred by Purchaser in connection with a breach of the foregoing warranties (including transportation, storage, administrative, and other incidental expenses of Purchaser). Supplier shall remove defective or non-conforming materials and equipment within a reasonable time fixed by written notice from Purchaser. The remedies set forth in this Agreement are cumulative, and shall not preclude any other remedy available to Purchaser at law or in equity. Materials and equipment which are modified, adjusted, repaired or replaced under the terms of this Agreement will be subject to the same warranties and remedies provided for original materials and equipment, provided that the warranty period shall extend from the date of modification, adjustment, repair, or replacement.

ARTICLE VII – INDEMNITY

- A. **Supplier's Indemnity.** Supplier shall indemnify, defend, and hold harmless Purchaser, its subsidiaries and affiliates, and their respective agents, officers, employees, successors, assigns, and indemnitees (the "Indemnified Parties"), from and against any and all losses, costs, damages, claims, liabilities, fines, penalties, and expenses (including, without limitation, attorneys' and other professional fees and expenses, and court costs, incurred in connection with the investigation, defense, and settlement of any claim asserted against any Indemnified Party or the enforcement of Supplier's obligations under this Article VII (collectively, "Losses"), which any of the Indemnified Parties may suffer or incur in whole or in part arising out of or in any way related to the products or services sold hereunder performed or to be performed, the presence of Supplier and/or its Subcontractors at Purchaser's Site, and/or the actions or omissions of Supplier and/or its Subcontractors, including, without limitation, Losses relating to: (1) bodily or mental injury to or death of any person, including, without limitation, any person employed by Purchaser, by Supplier, or by any Subcontractor; (2) damage to or loss of use of property of Purchaser, Supplier, any Subcontractor, or any third party; (3) any contractual liability owed by Purchaser to a third party; (4) any breach of or inaccuracy in the covenants, representations, and warranties made by Supplier under this Agreement; and/or (5) any violation by Supplier or any Subcontractor of any ordinance, regulation, rule, or law of the United States or any political subdivision or duly constituted public authority; subject, however, to the limitations provided in Section VII(B) (for work performed in Pennsylvania), or Section VII(C) (for work performed in states other than Pennsylvania). Purchaser shall be entitled to control the defense of any action indemnified hereunder, with legal counsel of its own choosing.
- B. WITH RESPECT TO WORK PERFORMED OR TO BE PERFORMED WITHIN THE COMMONWEALTH OF PENNSYLVANIA, Supplier's indemnity obligations under Section VII(A) shall apply in each case whether or not caused or contributed to by the fault or negligence of any or all of the Indemnified Parties, and Supplier expressly agrees that Supplier will indemnify, defend, and hold harmless the Indemnified Parties in connection with Section VII (A) even if any such Losses are caused in whole or in part by the sole or concurrent negligence of one or more of the Indemnified Parties. Supplier agrees to waive and release any rights of contribution, indemnity, or subrogation it may have against any of the Indemnified Parties as a result of an indemnity claim asserted by another Indemnified Party under Section VII(A). Section VII(A) is intended to be an express written contract to indemnify as contemplated under Section 303(b) of the Pennsylvania Workers' Compensation Act (or any successor to such provision).
- C. WITH RESPECT TO WORK PERFORMED OR TO BE PERFORMED AT ANY LOCATION WHICH IS NOT WITHIN THE COMMONWEALTH OF PENNSYLVANIA, Supplier's indemnity obligations under Section VII(A) shall not apply to any Losses to the extent such Losses are found to have been initiated or proximately caused by or resulting from the negligence or willful misconduct of any of the Indemnified Parties.
- D. **Waiver of Immunities.** If an employee of Supplier or its Subcontractor, or such employee's heirs, assigns, or anyone otherwise entitled to receive damages by reason of injury or death to such employee, brings an action at law against any Indemnified Party, then Supplier, for itself, its successors, assigns, and Subcontractors, hereby expressly agrees to waive any provision of any workers' compensation act or other similar law whereby Supplier could preclude its joinder by such Indemnified Party as an additional defendant, or avoid liability for damages, contribution, defense, or indemnity in any action at law, or otherwise. Supplier's obligation to Purchaser herein shall not be limited by any limitation on the amount or type of damages, benefits or compensation payable by or for Supplier under any worker's compensation acts, disability benefit acts, or other employee benefit acts on account of claims against Purchaser by an employee of Supplier or anyone employed directly or indirectly by Supplier or anyone for whose acts Supplier may be liable.
- E. **No Impairments.** Supplier's obligations under this Article VII shall not be limited to the extent of any insurance available to or provided by Supplier.

ARTICLE VIII - INSURANCE

- A. **Supplier's Insurance.** If the Supplier is furnishing services on Purchaser's Site, such as technical direction for installation and/or start-up, the Supplier agrees to secure and maintain in force minimum policies of insurance of the types listed below and shall furnish to Purchaser, prior to starting Work and throughout the duration of the Work, Certificates of Insurance evidencing current coverage listed below. These certificates shall be endorsed with substantially the following language:
- "This policy will not be canceled or allowed to lapse, and no change shall be made in this policy which alters, restricts or reduces the insurance provided or changes the name of the insured without first giving at least thirty (30) days' notice in writing to FirstEnergy Service Company, Insurance Risk Management, 76 South Main Street, Akron, Ohio 44308, with receipt of notice acknowledged."
1. Commercial General Liability (CGL) insurance including products-completed operations, independent contractors, and contractual liability coverages. Coverage under this policy shall have limits of liability of not less than \$2,000,000 per occurrence, combined single limit for bodily injury (including disease or death), personal injury, and property damage (including loss of use) liability.
 2. Automobile Liability insurance, including non-ownership and hired car endorsement, with minimum limits of \$1,000,000 per occurrence, combined single limit.
 3. Worker's Compensation coverage in the statutory amounts under the worker's compensation act(s) of the location(s) in which the Work is to be performed, for the current period.
 4. Employer's Liability with a minimum limit of \$1,000,000 for each accident or illness.
- Any of the above per-occurrence limits may be satisfied by a combination of primary and excess liability coverage.
- B. **Additional Insured.** FirstEnergy Corp. and its subsidiaries and affiliates shall be included as an additional insured for CGL and Automobile Liability policies, it being understood that said policies shall be primary and non-contributory with insurance carried by Purchaser and shall contain a cross-liability clause providing severability of interests so that coverage will respond as if separate policies were in force for each insured. A signed copy of the endorsement adding FirstEnergy Corp. and its subsidiaries and its affiliates as an additional insured shall be attached to the certificate of insurance providing general liability coverage.
- C. **Lapse of Coverage.** In the event of cancellation or lapse of or prohibited change in any policy for which a certificate is required to be furnished under this Agreement, Purchaser shall have the right to suspend the work of Supplier until the policy and certificates in evidence thereof are reinstated or arrangements acceptable to Purchaser are made pending issuance of new policies and certificates.

If any such insurance shall be about to lapse or be canceled, Supplier shall, at least thirty (30) days before coverage thereunder ceases, obtain a new policy with like coverage, and if Supplier fails to do so, Purchaser may obtain insurance protecting it from the hazards covered by such lapsed or cancelled policy, and all premiums and expenses of such insurance shall be charged against Supplier and shall be a legitimate deduction from any sum due it from Purchaser.

- D. Waiver of Subrogation. Supplier and any of its Subcontractors shall waive and hereby waives any rights of subrogation which they or any of their insurers may have against Purchaser, its affiliates, and each non-affiliated company disclosed in this Agreement, their respective agents or employees.
- E. Performance Bond. Purchaser may, at any time, require Contractor to secure a performance bond with such conditions and limits as may be prescribed by Purchaser. Purchaser shall reimburse Contractor for the cost of such bond.

ARTICLE IX – CANCELLATION BY PURCHASER Purchaser may terminate the Purchase Order at any time, in which event if there has not been a breach by Seller it may pay to Seller the proportionate part of the purchase price representing goods previously delivered and accepted. Acceptance of any portion of the goods ordered shall not bind Purchaser to accept any future shipment nor deprive Purchaser of the right to revoke acceptance and return previously delivered goods, nor waive its right to reject future deliveries. Supplier shall have no right to substitute for returned or rejected goods without Purchaser's written instructions and agreement. Purchaser shall not be liable for any consequential or incidental damages or the loss of any claims for anticipated profits on the unfinished or unshipped portion of goods.

ARTICLE X – COMPLIANCE WITH LAWS, REGULATIONS, AND PERMITS

- A. During the performance of this Agreement, Supplier shall strictly comply with all federal, state and local laws, rules or regulations and executive orders applicable to the Work.
- B. Without limiting the foregoing, and unless exempted under the rules, regulations and relevant orders (41 CFR Chapter 60) of the Secretary of Labor, in connection with the Work, Supplier agrees as follows:
1. Supplier shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Supplier shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Supplier shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the U.S. Department of Labor setting forth the provisions of this nondiscrimination clause.
 2. Supplier shall state, in all solicitations or advertisements for employees placed by or on its behalf, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 3. Supplier shall send to each labor union or representative of workers with which it has a collective bargaining agreement, contract or understanding, a notice to be provided by the U.S. Department of Labor, advising the labor union or workers' representative of Supplier's commitments under the following provisions, as amended from time to time:
 - a. Section 202 of Executive Order 11246 (Equal Opportunity);
 - b. Executive Order 11701 (Employment of Veterans);
 - c. Executive Order 11758 (Employment of the Handicapped);
 - d. Executive Order 11141 (Employment Discrimination Because of Age); and
 - e. Executive Order 11625 and Public Law 95-507 (Utilization of Disadvantaged Business Enterprises),and shall post copies thereof in conspicuous places available to employees and applicants for employment.
- C. Because Purchaser (or if applicable, one or more affiliates or non-affiliated companies) is a supplier of electricity and/or services to the U.S. government, it must include, and Supplier shall comply with, the below listed clauses from the Federal Acquisition Regulation ("FAR"), 48 Code of Federal Regulations Chapter 1, as amended from time to time, if the applicable criteria specified in the FAR (those currently applicable are summarized parenthetically) are met. If Supplier's subcontracts meet such criteria, Supplier shall include the terms or substance of the applicable clause in its subcontracts. If the provisions of this paragraph C conflict with the balance of the Agreement, this paragraph C shall prevail.
1. 52.203-6 Restrictions on Subcontractor Sales to the Government (required in all subcontracts under this Agreement which exceed \$100,000);
 2. 52.203-7 Anti-Kickback Procedures (required in all subcontracts under this Agreement which exceed \$100,000, other than those for commercial items);
 3. 52.204-2 Security Requirements (required in all subcontracts under this Agreement which involve access to classified information);
 4. 52.219-8 Utilization of Small Business Concerns (required in all non-personal subcontracts with a value greater than \$100,000);
 5. 52.219-9 Utilization of Small Business Concerns will be included in all subcontracts that offer further subcontracting opportunities, and that Purchaser will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction) to adopt a subcontracting plan that complies with the requirements of this clause;
 6. 52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation (required in all subcontracts exceeding \$100,000, unless otherwise exempted);
 7. 52.222-26 Equal Opportunity (required in all contracts/subcontracts; however, if the cumulative value of nonexempt Federal contracts/subcontracts is \$10,000 or less in any 12 month period, including the 12 months preceding the award, the supplier/subcontractor is exempt from the clause requirements);
 8. 52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (required in all contracts/subcontracts with a value of \$10,000 or more);
 9. 52.222-36 Affirmative Action for Workers with Disabilities (required in all contracts/subcontracts with a value of \$10,000 or more);
 10. 52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (required in all contracts/subcontracts with a value of \$10,000 or more);
 11. 52.223-14 Toxic Chemical Release Reporting (Except for acquisitions of commercial items, and unless otherwise exempt, this clause is required for competitive subcontracts expected to exceed \$100,000, including all options, and in any resultant subcontract exceeding \$100,000, including all options);
 12. 52.225-13 Restrictions on Certain Foreign Purchases (required in all subcontracts for contracts with a value exceeding \$2,500, unless otherwise exempted);
 13. 52.222-11 Subcontracts (Labor Standards) (required in all service contracts in excess of \$2,000 for construction within the United States) This provision requires that the following clauses be inserted into contracts meeting the criteria: Davis-Bacon Act, Contract Work Hours and Safety Standards Act—Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination—Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility.

14. 52.222-41 Service Contract Act of 1965, as Amended (required in all service contracts subject to the Act (i) which exceed \$2,500; or (ii) which are for an indefinite dollar amount and the contracting officer does not know in advance that the contract amount will be \$2,500 or less).
- D. Supplier shall comply with the Department of Commerce Export Administration Regulations ("EAR") in 15 CFR Chapter VII, subchapter C, including 15 CFR Section 734.2 which prohibits the export or release of controlled technology and/or software to foreign nationals within the United States who are not lawfully admitted to the United States for permanent residence. Supplier shall confirm that these regulations either do not apply to Supplier's activities under the terms of this Agreement or that Supplier has procedures to ensure compliance. If Supplier is directly or indirectly employing a foreign national not currently lawfully admitted to the United States for permanent residence to perform work under this Agreement, Supplier warrants to Purchaser that such employment does not violate the foregoing regulations.
- E. FOREIGN CORRUPT PRACTICES ACT PROVISIONS The following provisions shall apply to Supplier (unless it is a foreign concern) if it performs or obtains any of the Work in a foreign country:
1. All payments to Supplier shall be by check or bank transfer only. No payment shall be in cash or by bearer instrument, and no payment shall be made to any corporation or person other than Supplier. All payments due hereunder shall be made to Supplier at its principal place of business in the United States, even if Supplier performs or obtains the Work in a foreign country.
 2. Supplier represents that it is familiar with the Foreign Corrupt Practices Act (the "FCPA") and its purposes; and that, in particular, it is familiar with the prohibition against paying or giving of anything of value, either directly or indirectly, by an American company to an official of a foreign government for the purpose of influencing an act or decision in his official capacity, or inducing him to use his influence with that government, to assist a company in obtaining or retaining business for or with, or directing business to, any person.
 3. Supplier represents that none of its partners, purchasers, principals, and staff members are officials, officers, or representatives of any government or political party or candidates for political office. Supplier shall not use any part of its compensation for any purpose, and shall take no action, that would constitute a violation of any law of the United States (including the FCPA) or of any jurisdiction where it performs services or manufactures or sells goods. Purchaser represents that it does not desire and will not request any Work by Supplier that would or might constitute any such violation.
 4. Purchaser may terminate the Contract for default at any time, without any liability or obligation, if it believes, in good faith, that Supplier has violated this Article. Any action by Supplier which would or might constitute a violation of the FCPA, or a request for such action from Supplier's representative, shall result in immediate termination of the Contract for default. Should Supplier ever receive, directly or indirectly, from any Purchaser representative a request that Supplier believes will or might violate the FCPA, Supplier shall immediately notify Purchaser's general counsel.
 5. Purchaser may disclose the existence and terms of the Contract, including the compensation provisions, at any time, for any reason and to whomever Purchaser's general counsel determines has a legitimate need to know the same including, without limitation, the United States government, the government of any country where the Work is performed or obtained, and any regulatory agency with jurisdiction over Purchaser.
- F. Supplier shall comply with the Occupational Safety and Health Act of 1970 and all rules, regulations, standards, requirements and revisions thereof or adopted pursuant thereto.
- G. Unless this Agreement otherwise provides, Supplier shall, at its own expense, obtain from appropriate governmental authorities all permits, inspections and licenses which are required for the Work and comply with all rules and regulations of insurance companies which have insured any of the Work.
- H. Any costs, fines, penalties, awards, damages or other liabilities associated with any violations of this Article shall be borne and paid by Supplier.
- I. If applicable, Supplier agrees to comply with all Hazard Communication Standards promulgated by the Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1200, et seq., as amended, to insure that chemical hazards produced, imported, or used with the workplace are evaluated, and that hazard information is transmitted to affected employees of Supplier, of any subcontractor or of Purchaser.
- J. Supplier acknowledges and agrees that its employees, if given access to FirstEnergy's (FirstEnergy Corp., its subsidiaries and affiliates) Information and Control Systems, may be required to sign an agreement governing Supplier and such employees' use of such systems.
- K. Supplier shall comply with all requirements of any governmental regulatory codes of conduct applicable to the work performed under this Agreement, including the FERC Standards of Conduct (Order No. 2004); New Jersey BPU Affiliate Relations, Fair Competition, and Accounting Standards (N.J.A.C. 14:4-5.1 et seq.); Ohio Corporation Separation Rules (O.A.C. 4901:1-20-16); and Pennsylvania PUC Competitive Safeguard regulations (52 Pa. Code §§ 54.121 and 54.122); or any successor to those provisions.
- L. Supplier shall comply with all requirements of Executive Order 13201 (E.O. 13201) mandating Government contractors and subcontractors to post to inform their employees that under Federal law they have certain rights related to union membership and the use of union dues and fees.

ARTICLE XI – LIMITATION OF LIABILITY Under no circumstances shall Purchaser, its subsidiaries and affiliates be liable for any anticipated profits or for incidental or consequential damages.

ARTICLE XII – ASSIGNMENT Supplier may not assign any rights or claims, or delegate any duties under this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of Purchaser. In the event of any assignment or delegation permitted hereunder, Supplier shall continue to be liable for the performance of its obligations hereunder.

ARTICLE XIII – NON-WAIVER The failure of Purchaser to insist or enforce in any instance strict performance of any of the terms of this Agreement or to exercise any rights hereunder conferred, shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

ARTICLE XIV – PROHIBITION OF PUBLICITY Supplier shall not refer to this Agreement or reference Purchaser, its subsidiaries and affiliates, directly, or indirectly, in its advertising or promotional materials without express written consent.

ARTICLE XV - GIFTS AND GRATUITIES/CONFLICTS OF INTEREST Purchaser ("FirstEnergy") enforces policies governing the conduct of its employees in carrying out its business activities, including contact with third-party business partners. The conflicts of interest & gifts and gratuities policies generally prohibit FirstEnergy employees and/or their family members from giving or receiving gifts, favors, services, or privileges (including travel or entertainment) from existing or potential customers, suppliers, or contractors that are more than a nominal value, or that exceed the level of standard business courtesies, and the acceptance of cash, gift certificates, or loans in any amount. The conflicts of interest policy generally prohibits FirstEnergy employees and/or their family members from serving as an officer, director, employee, consultant, agent, or Buyer of a beneficial interest in an organization which has a business relationship with FirstEnergy as a supplier or contractor, if the FirstEnergy employee is in a position to influence decisions concerning the relationship. The entire text of these policies may be found within the Supply Chain Section at www.firstenergycorp.com. Suppliers and prospective suppliers to FirstEnergy are expected to be aware of and comply with these policies in their dealings with FirstEnergy employees and their family members. *Any suspected or actual violations of these policies should be reported; and, may be reported anonymously and confidentially by a customer, supplier, contractor, or employee by calling the Employee Concerns Line (1-800-683-3625), 24 hours a day, 7 days a week.*

ARTICLE XVI – CONFIDENTIALITY Supplier acknowledges that in the course of this engagement it may have access to and/or be in possession of Confidential Information of Purchaser. "Confidential Information" shall include scientific and technical information, formulas, devices, concepts,

inventions, designs, drawings, methods, techniques, computer software, screens, user interfaces, system designs and documentation, marketing and commercial strategies, information concerning Purchaser's or any of its affiliates' employees, customers, or suppliers, processes, data concepts, and know-how, and unique combinations of separate items which individually may or may not be confidential, which information is not generally known to the public and either derives economic value, actual or potential, from not being generally known or has a character such that Purchaser or any of its affiliates has an interest in maintaining its secrecy. Supplier shall hold in confidence, in the same manner as it holds its own Confidential Information of like kind, all Confidential Information to which it may have access hereunder, and shall not use Confidential Information for any purpose other than performance of the Work. Access to Confidential Information shall be restricted to Supplier's employees with a need to know such information in connection with the Work.

ARTICLE XVII – INVALIDATION OF TERMS If any portion of this Agreement is held invalid, the Parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement, and the Parties further agree to substitute for the invalid portion a valid provision that most closely approximates the economic effect and intent of the invalid provision.

ARTICLE XVIII – SALES TAX Taxes, if any, shall be shown separately on any bids or invoices sent to Purchaser. Direct Payment Permit Numbers authorizing purchase of tangible personal property without payment of the tax at the time of purchase, have been issued to Purchaser. The Permit Numbers are 98001123 for Ohio Edison Co., 128 for Pennsylvania Power Co., 98002722 for FirstEnergy Nuclear Operating Co., 98000312 for The Cleveland Electric Illuminating Co., 98001495 for The Toledo Edison Co., DP-210-485-010 for Jersey Central Power and Light Co., 127 for Pennsylvania Electric Company, 135 for Metropolitan Edison Co. and 98-002723 for FirstEnergy Generation Corp. In Michigan, a Michigan Sales and Use Tax Certificate of Exemption shall be made available upon request. Purchaser agrees to maintain adequate records of all purchases and pay tax on the taxable items directly to the Treasurer of each respective State. In Ohio, Direct Payment Permits do not apply to construction contracts under which the supplier is considered to be the consumer and liable for the tax on materials incorporated into a structure or improvement as provided in Section 5739.01 (B) Ohio Revised Code. Pennsylvania Direct Payment Permits do not apply to construction contracts under which a supplier is considered to be the consumer and liable for the tax on materials incorporated into the property of Pennsylvania companies. Pennsylvania Sales and Use Tax Regulations Sections 31.11 through 31.16 provide for tax-exempt purchase of materials by a supplier for those materials that will be incorporated into and become a part of the property of Pennsylvania companies. In order to qualify, the property must be directly used in the rendition of the Public Utility Service. Contract bids should be submitted accordingly. The successful bidder will be issued a properly executed "Certification" form upon request to permit tax-exempt purchase of qualifying materials.

Questions concerning Pennsylvania or New Jersey sales taxes should be directed to the FirstEnergy Service Company, at (973) 401-8383. Questions about Ohio sales taxes (and states other than Pennsylvania or New Jersey), should be directed to the FirstEnergy Service Company, at (330) 384-5334.

ARTICLE XIX – SEVERABILITY

If any portion of this Agreement is held invalid, the Parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement, and the Parties further agree to substitute for the invalid portion a valid provision that most closely approximates the economic effect and intent of the invalid provision.

ARTICLE XX – GOVERNING LAW Unless otherwise stated on the face of the Purchase Order, this Agreement is to be governed by and interpreted in accordance with the law of the State of Ohio. The parties expressly exclude the applicability of the United Nations Convention on Contracts for the International Sale of Goods, if the same would otherwise apply here. Any legal suit, action, or proceeding to collect payment due hereunder from Purchaser, or otherwise arising out of or relating to this Agreement may be (and, if against Purchaser, must exclusively be) instituted in a State or Federal Court in the County of Summit, State of Ohio, and Supplier waives any objection which it may have now or hereafter to the laying of the venue of any such suit, action or proceeding and hereby irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding.

ARTICLE XXI - EXECUTION AND COUNTERPARTS

This Agreement may be executed in multiple counterparts, which taken together shall constitute an original without the necessity of all parties signing the same page or the same documents, and may be executed by signatures to electronically or telephonically transmitted counterparts in lieu of original printed or photocopied documents. Signatures transmitted by facsimile shall be considered original signatures.