General Terms and Conditions for Purchase Orders

Release Date: 10-12-2023,
Revision 8

THIS AGREEMENT CONTAINS PROVISIONS RELATIVE TO INDEMNITY, RELEASE OF LIABILITY AND ALLOCATION OF RISK

1.0 DEFINITIONS

The following definitions shall apply to this Agreement and amendments thereto and to related documents.

(a) "Agreement" shall mean these General Terms and Conditions for Purchase Orders.
(b) "Affiliate" shall mean an entity owned by, owning, controlling, or under common ownership or control with NRG Energy, Inc.
(c) "Claims" shall mean actions, claims, costs (including without limitation, costs of investigation, litigation, and court costs), damages (including willful patent infringement damages where allowable by law), demands, fines, interest, judgments, liabilities, losses, penalties, proceedings, suits (including appeal), and expenses (including, without limitation, reasonable attorneys' fees) of whatsoever kind or character.
(d) "Governmental Authority" shall mean any federal, state, local, or municipal governmental body or agency or subdivision thereof, including, but not limited to, any legislative or judicial body, having appropriate jurisdiction to exercise authority or control over a Party, its parent corporation or any part or all of the Work to be performed under the Purchase Order.
(e) "NRG" means NRG Energy, Inc.
(f) "Owner" shall mean the business entity issuing the Purchase Order.
(g) "Owner Parties" shall mean Owner, its parent company (if any), subsidiaries, affiliates, divisions, any entity or entities (other than Supplier Parties) that own or operate the Work Site(s) and their respective directors, officers, managers, members, shareholders, employees, agents, engineers, representatives, successors, and assigns.
(h) "Party" shall mean either Owner or Supplier when referred to individually. "Parties" means Owner and Supplier when referred to collectively.
(i) "Price" shall have the meaning set forth in Article 4 [PRICE AND PAYMENTS].
(j) "Purchase Order" shall mean Owner's standard authorizing purchase order document, and all documents attached thereto or referenced therein.
(k) "Subcontractor" shall mean any person, firm, partnership, association, joint venture, company, corporation or other entity, regardless of tier, engaged by Supplier to provide any part of the Work under the Purchase Order.
(l) "Supplier" shall mean the person or entity to whom the Purchase Order is issued.
(m) "Supplier Parties" shall mean Supplier, its suppliers or Subcontractors of any tier, their respective parent company (if any), subsidiaries, affiliates, divisions, and their respective directors, officers, managers, members, shareholders, employees, agents, representatives, successors, and assigns.
(n) "Taxes" shall mean sales, use, excise, value-added, or other similar taxes, duties, charges, or fees (and any related fines, penalties, or interest).
(o) "Work" shall mean labor, equipment, supplies, goods (including, but not limited to, raw materials, components, intermediate assemblies and end products), and related services to be furnished under the Purchase Order at the Work Site, and the carrying out of all obligations imposed by the Purchase Order.
(p) "Work Site" shall mean the location where the labor, equipment, supplies, goods (including, but not limited to, raw materials, components, intermediate assemblies and end products), and related services to be furnished under a Purchase Order are delivered or performed.

2.0 SCOPE AND TERM

(a) The Purchase Order will describe the parties to that Purchase Order, the goods and services to be purchased, quantity, price, delivery date, the scope of work, part number and any other relevant information. The Purchase Order incorporates and is subject to this Agreement.
(b) Owner's affiliates may use any Work contemplated under the Purchase Order for such Affiliate's business purposes.
(c) The term of the Purchase Order shall commence on acceptance of the Purchase Order and shall remain in force until it expires or is earlier terminated by either Party in accordance with this Agreement.

3.0 ACCEPTANCE

Supplier's signing and returning of the Purchase Order, Supplier's order acknowledgement, Supplier's commencement of performance of any Work, or shipment of goods subject to the Purchase Order, whichever occurs first, shall be deemed an effective acceptance of the express terms of the Purchase Order. Terms that modify any term in this Agreement attached to or included in any form to Supplier's proposal or Supplier's acceptance are hereby rejected and are not and shall not be part of the Purchase Order.

4.0 PRICE AND PAYMENTS

(a) In making payments hereunder, Owner shall be entitled to conclusively presume that payment information furnished by Supplier, such as name, account number(s) and name of payee is accurate. In no event shall Owner make a second payment where the first payment is made in accordance with such Supplier furnished information. All payments shall be in U.S. currency in immediately available funds. **All correct, undisputed invoices for Work accepted by Owner shall be payable 60 days after the receipt of such invoice (or on the next succeeding business day if such 60th day is a weekend or holiday).** The Price for Work shall be as set forth on the face of a Purchase Order.

(b) Supplier shall submit all invoices with sufficient detail, including timesheets, expense reports, receipts, drawing submittal receipts, test reports as required, and in accordance with Purchase Order provisions, to Owner to the address indicated on Purchase Order. All invoices must contain the Purchase Order number and respective line item number (if applicable), in order to be paid. Payment of an invoice does not constitute acceptance by Owner and is without prejudice to any and all Claims Owner may have against Supplier.

5.0 INSPECTION, EXPEDITING, SHIPMENT, DELIVERY, ACCEPTANCE OR REJECTION

(a) Shipments shall be F.O.B. Owner's designated location, collect, unless stated otherwise on the front of the Purchase Order. Supplier shall immediately notify Owner once it expects a delivery to be late. Owner may accept or reject any or all Work within a reasonable time after receipt. Acceptance of the Work shall in no way be a waiver of or impair Owner's right to reject or revoke its acceptance of nonconforming Work, or to avail itself of any other remedies to which Owner may be entitled, notwithstanding Owner's knowledge of the nonconformity, its substantiality or ease of discovery. Owner shall have the right of access to Supplier's, and Supplier's major sub- Suppliers', plant(s) for inspection and expediting purposes. Supplier shall supply schedules and progress reports to Owner for use in expediting.

(b) Unless Owner directs otherwise in writing, Supplier shall receive, unload, store in a secure place, and deliver from storage to the work area all materials and plant equipment required for the performance of the Work. The storage facilities and methods of storing are subject to Owner's review and shall meet Owner's requirements. Materials and equipment subject to degradation by outside exposure shall be stored in weather-tight enclosures provided by Supplier.

6.0 INSURANCE

Supplier shall purchase and maintain such insurance as will protect Supplier and Owner from the losses or claims which may arise out of or result from liabilities that Supplier or Owner may incur related to Supplier's performance or obligations to perform under the Purchase Order, whether such performance be by Supplier or by anyone directly or indirectly employed by Supplier, or by anyone for whose acts Supplier may be liable:

(a) The Supplier shall maintain insurance written in the kinds and minimum limits of liability specified below:

1) Commercial General Liability (GL) - $1,000,000 per occurrence for Bodily Injury, including death, Property Damage, and Personal Injury, with a $2,000,000 Aggregate, written on an occurrence based form. Inclusions on the GL Policy: Contractual Liability ; Broad Form Property Damage; Independent Contractors; Premises and Operations; Products & Completed Operations; Mobile Equipment, Cross Liabilities/Separation of Insureds, and, no exclusion for X.C. & U., Lifting, Rigging, or operations within 50 feet of a railroad. The GL policy shall extend coverage to claims and/or suits brought by Supplier's employees for bodily injury incurred on Owner Parties' property and/or premises, more commonly referred to as action-over claims;
2) Workers' Compensation (WC) - Statutory, including temporary, leased and casual workers. If required for the Work or services being rendered, USL&H and FELA shall also be provided. Employer's Liability (EL) - $1,000,000 each accident/each employee.
3) Automobile Liability (AL) -$1,000,000 Combined Single Limit, including coverage for owned, non-owned and hired vehicles;
4) Marine Liability (ML) - If a Marine Liability exposure exists as part of the Work being rendered pursuant to the Purchase Order, then Supplier agrees to maintain insurance coverages having limits, terms and conditions appropriate to the exposure. Owner shall have the right, but not the obligation, to review Supplier's ML coverage, and to request changes to the coverage in order to fully protect Owner Parties' interests.
5) Excess Liability (Umbrella) -$5,000,000 coverage that will respond excess of the underlying EL, GL, AL, and ML (if ML is applicable) policies on a following form basis.

(b) Owner Parties shall be included as Additional Insured's on the GL, AL, ML and Umbrella policies for injury or damage arising out of, resulting from, or in connection with, Supplier's performance of the Purchase Order. The Additional Insured status noted in this Article shall be specifically endorsed to Supplier's Policies (blanket endorsements acceptable), and with respect to the General Liability Policy shall provide additional insured status for both ongoing and completed operations, utilizing a ISO CG 20 10 07 04 endorsement form, issued in combination with a ISO CG 20 37 07 04 endorsement form, with the additional insured status applying to the extent permitted by law. If Supplier is supplying parts or equipment that Owner Parties will be distributing or reselling to third parties, then Supplier shall provide Owner with an additional insured endorsement (blanket endorsements acceptable) that is the equivalent of an ISO CG 20 15 07 04, which will extend Supplier's Products Liability

insurance coverage to the Owner Parties as additional insureds. The insurance provided by Supplier shall be primary, without right of contribution, with respect to any similar insurance being maintained by, or available to, the Owner Parties and any additional insured. Waiver of Subrogation shall be provided pursuant to this written contract for all Owner Parties and Additional Insureds with respect to each of the coverages noted in Section (a), above.

(c) Supplier shall furnish Owner certificates of insurance acceptable to Owner evidencing the required coverage, as well as any other terms and conditions as specified herein, prior to commencement of the Work. The policies noted in this Article shall not be canceled or materially changed in a manner that adversely affects Owner or any additional insured until thirty (30) days prior written notice has been provided to Owner by Supplier or Supplier's Insurance Agent/Broker. The failure by Supplier to provide Owner with Certificates of Insurance, or Owner to insist upon Certificates of Insurance, shall not be deemed a waiver of any rights of Owner under this Agreement. The inclusions, coverage and limits set forth herein are minimum inclusions, coverage and limits, and shall not be construed as a limitation of Owner's rights under the noted policies, or other policies being maintained by Supplier. Supplier is responsible for determining what additional coverage, terms or limits are required to perform the Purchase Order, even though those requirements may be in addition to, in excess of, the minimum requirements set forth herein.

(d) Supplier shall maintain a current, valid insurance certificate that meets NRGs requirements in NRG's Supplier Portal (link available at https://www.nrg.com/suppliers.html).

7.0 INDEMNITY

(a) SUPPLIER AGREES TO RELEASE, DISCHARGE, AND RELINQUISH, AND TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, ASSESSED AGAINST OR INCURRED BY ANY OF THE OWNER PARTIES OR ARISING IN FAVOR OF ANY OF THE SUPPLIER PARTIES OR ANY THIRD PARTY ON ACCOUNT OF OR ALLEGING PERSONAL INJURY, BODILY INJURY, ILLNESS, OR DEATH (EXCEPT FOR CLAIMS ON ACCOUNT OF OR ALLEGING PERSONAL INJURY, BODILY INJURY, ILLNESS OR DEATH OF AN EMPLOYEE OF SUPPLIERPARTIES) OR DAMAGE TO OR LOSS OF PROPERTY IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF OR IN CONNECTION WITH THE WORK PERFORMED OR PROVIDED BY SUPPLIER HEREUNDER OR THE PRESENCE OF ANY SUPPLIER PARTIES ON THE WORK SITE.

THE OBLIGATIONS TO RELEASE, TO DEFEND, AND TO INDEMNIFY CONTAINED IN THIS ARTICLE 7(a), EXCEPT TO THE EXTENT PROHIBITED BY LAW, SHALL APPLY EVEN IF CAUSED, IN WHOLE OR IN PART, BY THE JOINT, SOLE, OR CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY, CONTRACTUAL OBLIGATIONS, OR OTHER FAULT, WHETHER PASSIVE OR ACTIVE, OF ANY PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO THE OWNER PARTIES.

(b) SUPPLIER AGREES TO RELEASE, DISCHARGE, AND RELINQUISH, AND TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER PARTIES FROM AND AGAINST ANY AND ALL CLAIMS ASSESSED AGAINST OR INCURRED BY ANY OF THE OWNER PARTIES OR ARISING IN FAVOR OF ANY OF THE SUPPLIER PARTIES OR ANY THIRD PARTY ON ACCOUNT OF OR ALLEGING PERSONAL INJURY, BODILY INJURY, ILLNESS OR DEATH OF AN EMPLOYEE OF SUPPLIER PARTIES IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF OR IN CONNECTION WITH THE WORK PERFORMED OR PROVIDED BY SUPPLIER HEREUNDER OR THE PRESENCE OF ANY SUPPLIER PARTIES ON THE WORK SITE.

THE OBLIGATIONS TO RELEASE, TO DEFEND, AND TO INDEMNIFY CONTAINED IN THIS ARTICLE 7(b), EXCEPT TO THE EXTENT PROHIBITED BY LAW, SHALL APPLY EVEN IF CAUSED, IN WHOLE OR IN PART, BY THE JOINT, SOLE, OR CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY, CONTRACTUAL OBLIGATIONS, OR OTHER FAULT, WHETHER PASSIVE OR ACTIVE, OF ANY PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO THE OWNER PARTIES. TO THE FULLEST EXTENT PERMITTED BY LAW, SUPPLIER EXPRESSLY WAIVES THE BENEFIT, FOR ITSELF AND ITS SUBCONTRACTORS, OF THE PROVISIONS OF ANY APPLICABLE WORKERS' COMPENSATION LAW LIMITING THE TORT OR OTHER LIABILITY OF ANY EMPLOYER ON ACCOUNT OF INJURIES TO THE EMPLOYER'S EMPLOYEES INSOFAR AS THE ABOVE INDEMNIFICATION AND DEFENSE OBLIGATIONS ABOVE ARE CONCERNED, AND ASSUMES LIABILITY IN ACCORDANCE WITH THIS SECTION; PROVIDED, HOWEVER, SUCH A WAIVER IS NOT INTENDED TO BENEFIT ANY THIRD PARTIES AND IS NOT A WAIVER OF ANY RIGHTS OR DEFENSES EITHER PARTY HERETO MAY HAVE AGAINST A THIRD PARTY.

8.0 CHANGES IN THE WORK

Owner shall have the right to make any changes in the Work. Should any change affect the amount or character of labor or material required or time for performance hereunder, the price and/or schedule shall be adjusted by mutual written agreement. Any such revisions shall be made only by a written supplement to the Purchase Order. In the

absence of such a supplement, Supplier shall have no claim for additional compensation. In case any such change shall result in a decrease of Work, no allowance shall be made to the Supplier for loss of anticipated profits.

9.0 PATENT & COPYRIGHT INFRINGEMENT

SUPPLIER SHALL, AT ITS OWN EXPENSE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OWNER PARTIES FROM AND AGAINST ANY AND ALL CLAIMS BROUGHT AGAINST ANY OF THE OWNER PARTIES WHICH ARE BASED ON A CLAIM, WHETHER RIGHTFUL OR OTHERWISE, THAT THE WORK FURNISHED UNDER THE PURCHASE ORDER, CONSTITUTE(S) AN INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT OF A THIRD PARTY, AND SUPPLIER SHALL PAY ALL DAMAGES, COSTS, AND EXPENSES ARISING OUT OF SUCH CLAIMS. SUPPLIER SHALL PROMPTLY NOTIFY OWNER OF ANY CLAIM THAT MAY BE PRESENTED TO SUPPLIER BY ANY PERSON. IF OWNER BECOMES AWARE OF SUCH A CLAIM, DEMAND, OR CAUSE OF ACTION AND NOTIFIES SUPPLIER, SUPPLIER SHALL HAVE FIFTEEN (15) CALENDAR DAYS AFTER RECEIPT OF NOTICE BY OWNER TO ASSUME THE DEFENSE OF SUCH MATTER. IF SUPPLIER ASSUMES SUCH DEFENSE, SUPPLIER SHALL KEEP OWNER REASONABLY INFORMED OF THE PROGESSS OF THE DEFENSE, COMPROMISE OR SETTLEMENT AND PERMIT OWNER TO PARTICIPATE IN THE SUIT IN AN ADVISORY CAPACITY. IF SUPPLIER FAILS TO ASSUME SUCH RESPONSIBILITIES, OWNER SHALL HAVE THE RIGHT TO UNDERTAKE, AT SUPPLIER'S EXPENSE, THE DEFENSE, COMPROMISE OR SETTLEMENT OF THE MATTER ON BEHALF OF AND FOR ACCOUNT AND RISK OF SUPPLIER. NO SETTLEMENT WHICH PREVENTS OWNER FROM CONTINUING TO USE THE WORK, RESTRICTS SUCH USE, OR IMPOSES ANY FINANCIAL OBLIGATION ON OWNER SHALL BE MADE WITHOUT OWNER'S PRIOR WRITTEN CONSENT. IN ALL EVENTS, OWNER SHALL HAVE THE RIGHT TO PARTICIPATE, AT ITS OWN COST AND EXPENSE, IN THE DEFENSE OF ANY SUIT OR PROCEEDING THROUGH COUNSEL OF ITS OWN CHOOSING. IN ADDITION, SUPPLIER SHALL, PROMPTLY AND AT ITS OWN EXPENSE (A) PROCURE FOR OWNER THE RIGHT TO CONTINUE THE USE OF THE WORK, (B) REPLACE SAME WITH NON-INFRINGING WORK SATISFACTORY TO OWNER, OR (C) MODIFY THE WORK IN A WAY SATISFYING TO OWNER SO THAT THE WORK IS NON-INFRINGING. SUPPLIER SHALL BE RESPONSIBLE FOR PAYING ANY DAMAGES DIRECTLY TO THE THIRD PARTY OR ANY COSTS RELATING TO THE INFRINGEMENT AND SHALL REIMBURSE OWNER WITHIN THIRTY (30) DAYS OF BEING NOTIFIED BY OWNER OF ANY SUCH AMOUNTS.

10.0 SAFETY & HEALTH

(a) Supplier shall be solely responsible for the safety and health of all members of the Supplier Parties, including, but not limited to, its Personnel, its Subcontractors' personnel, and other persons required in the execution of the Work.

(b) Supplier shall maintain a safety program on the Work Site. Said safety program shall maintain a safe work place and ensure compliance with all applicable sections of the National Fire Codes, Occupational Safety & Health Administration (OSHA) Regulations, any state or local laws or codes, and any additional requirements imposed by Owner.

(c) Supplier's health and safety program must comply with OSHA standards and any other rules and regulations applicable in the State in which Work is being delivered.

(d) Supplier shall register and maintain safety information in NRG Suppliers Portal (link available at https://www.nrg.com/suppliers.html). Supplier must have a qualified or conditionally qualified status prior starting work on-site.

(e) Penalties - Any civil or criminal penalties imposed upon Supplier pursuant to OSHA or any other laws or regulation by any Governmental Authority having jurisdiction shall not constitute reimbursable costs of Supplier. Supplier will reimburse Owner for any penalties and cost of compliance relating to OSHA or other Governmental Authority citations incurred by any of the Owner Parties arising from violations by any of the Supplier Parties.

(f) Supplier shall be responsible for ensuring that its and Supplier Parties' Personnel shall at all times be fit to work and their performance not be impaired by alcohol or drugs. If Owner notifies Supplier (either written or verbally) of any Supplier violation of OSHA requirements, or Owner's or Supplier's individual safety program, Supplier shall take immediate corrective action. In the event that Supplier fails to implement immediate corrective actions, or in the opinion of the Owner fails to implement adequate immediate corrective actions. Owner reserves the right to stop all Work until the noncompliance is corrected. Owner also reserves the right to stop work immediately in imminent danger situations or an emergency.

(g) Supplier shall immediately report all incidents to Owner that occur on Owner's premises regardless of severity and investigate and submit to Owner and the workers' compensation carrier written reports of all accidents wherein disabling injuries or fatalities occur or which result in damage to property or fire loss. These reports shall be submitted within twenty-four hours of the occurrence. Owner may request an investigation of any reported incident that occurs on Owner's premises regardless of severity.

(h) Prior to commencing Work at the Work Site, Supplier shall ensure that its Personnel, and its Subcontractors Personnel, successfully complete the "Basic Orientation Plus" (aka Basic Plus, or subsequent Basic Plus Refresher) or "PowerSafe Generation - Proctored" (or subsequent PowerSafe Generation Refresher – Proctored) safety training annually. Any such training shall be proctored by an ARSC (Association of Reciprocal Safety Councils, Inc.) reciprocal safety council. Any variance with complying with the obligations set forth in this Section 10.0(h) shall be subject to Owner's approval, in its reasonable discretion.

(i) Supplier shall abide by the terms and conditions set forth in Owner's Supplier Code of Conduct. A copy of the Supplier Code of Conduct shall be made available to Supplier online at http://www.nrg.com/documents/contact-

us/NRG-Supplier-Code-of-Conduct.pdf. Supplier shall also comply, and shall ensure that its contractors and Subcontractors comply, with NRG's Corporate Safety Manual—Contractor Safety (NRG-1602). Supplier shall execute an acknowledgment form verifying receipt of the Corporate Safety Manual prior to any commencement of Work at a Work Site. Any failure of Supplier to execute the acknowledgement form shall not waive or release Supplier from complying with those obligations set forth in the manual.

11.0 ENVIRONMENTAL PROTECTION

Supplier shall comply with all Federal, State and local laws and regulations pertaining to the protection of the environment associated with the Work. Supplier shall not drain equipment, spill, pour, abandon, bury or dispose of material in any manner on Owner's property or the Work Site. Supplier will put waste materials (i.e., spent abrasives, spent thinners, solvent, or other cleaning waste) in containers (provided by Owner) and label for disposal by Owner. Supplier shall in accordance with applicable laws and regulations, provide suitable facilities to prevent the introduction of any substances or materials into the waters of the state. A containment berm shall be used around any kind of chemical or petroleum storage area designated to contain a release. Supplier shall perform its Work so as not to discharge into the atmosphere, from any source whatever, smoke, dust or other contaminants in violation of the laws, rules regulations and permits of the Governmental Authorities having jurisdiction. If any such releases to the environment occur, Supplier shall immediately contact Owner. Supplier shall be liable for all expenses incurred to remove all contaminated material introduced to the Work Site by any Supplier Parties in accordance with appropriate governmental regulation and to the satisfaction of Owner. Supplier shall not overhaul any equipment on Owner's property or the Work Site, except for emergency repairs of short duration, which would be necessary to complete the Work of that day. Any fluids drained or removed from vehicles or equipment shall be collected in suitable containers and transferred to Owner's designated waste storage area where it is to be disposed of in accordance with applicable governmental regulations at Supplier's expense. In the event that Supplier encounters on the Work Site, materials reasonable believed to be asbestos or polychlorinated biphenyl (PCB), or any other hazardous substance subject to regulation, Supplier shall immediately stop Work in the area affected and report the condition to Owner. The Supplier shall not be required to perform any Work related to hazardous materials. Supplier is responsible for ensuring that its Personnel receive training on environmental requirements applicable to the nature of the Work.

12.0 WARRANTY

(a) Supplier warrants that it shall have title to all of the goods furnished hereunder and the rights to sell such goods. Supplier warrants and represents that it has developed or obtained all of the rights and licenses necessary for such goods and/or services to conform to the Purchase Order and any related agreements as well as cover any reasonably anticipated use by Owner. Supplier warrants and represents that it has acquired such licenses, if any, and that such licenses allow for the use of the goods and/or services by Owner. Supplier warrants that all Work furnished hereunder shall be performed, produced, and furnished in compliance with all applicable federal, state, and local laws, orders, and regulations. Unless otherwise specified herein, Supplier shall obtain all permits necessary for performance under the Purchase Order. Supplier expressly warrants that all Work performed, produced, and furnished or delivered under the Purchase Order shall be provided in accordance with the requirements of the Purchase Order and performed in accordance with standards of care, skill and diligence consistent with recognized and sound industry practices and procedures, will be new and will be free from defects in design, material and workmanship and if installed by Supplier, be properly installed and activated, for a period of eighteen (18) months after acceptance of the Work or designated portion thereof. Supplier warrants and represents that there are no pending, or to Supplier's knowledge threatened, litigation, except as provided to Owner in writing, involving or relating to the goods and/or services offered by Supplier relating to this or any related agreements. Supplier agrees to notify Owner within fourteen (14) days of becoming aware of any such pending or threatened litigation during the term and for a period of two (2) years following the expiration or termination of the Purchase Order. Owner shall have the benefit of all warranties implied at law and express warranties made by Supplier. Supplier agrees to promptly replace or correct defects of any Work not conforming to the foregoing warranty, without expense to Owner, including, without limitation, transportation, shipping, and any incidental expenses. If Supplier fails to promptly repair or replace any of the foregoing, Owner, in addition to any other rights it may have at law or in equity, may make such corrections or replace such Work, goods or services and charge Supplier for the cost incurred by Owner in doing so.

(b) Neither payment nor any other provision of this Agreement, nor partial or entire use of the Work by Owner shall relieve Supplier of its liability with respect to the warranties contained in this Agreement.

(c) If Owner prefers to accept Work that is not in accordance with the requirements of this Agreement, Owner may do so instead of requiring its removal and correction, in which case the Agreement price will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

(d) Supplier represents and warrants that it does not manufacture or subcontract for the manufacture of any products for which conflict minerals are necessary to the functionality or production of that product. For purposes of this Article 12(d) the term "conflict minerals" means minerals such as cassiterite, columbite-tantalite, gold, and wolframite, derivatives of these minerals (including tin, tantalum and tungsten) and other minerals that the US Secretary of State may designate from time to time, that are sourced from a mine located in the Democratic Republic of Congo or an adjoining country.

13.0 INVOICING, RECORDS AND AUDIT

(a) Invoices shall have sufficient detail and back-up information (e.g., time sheets, equipment rates, etc.) to allow verification that the invoice is accurate. All invoices must contain the Purchase Order number and respective line item number (if applicable), in order to be paid. Payment of an invoice does not constitute acceptance by Owner and is without prejudice to any and all claims, at law or in equity that Owner may have against Supplier.

(b) Supplier's and its Subcontractor's books, records and accounts, correspondence, accounting procedures and practices and any other supporting evidence relating to the Purchase Order (all the foregoing hereinafter referred to as "Records") shall be open to inspection, audit and/or reproduction, during normal working hours, by Owner or its authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims based on Supplier's or Subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended, directly in the performance or termination of the Work under the Purchase Order. For the purpose of evaluating or verifying such actual or claimed costs incurred or units expended, Owner or its authorized representative shall have access to said Records from the effective date of the Purchase Order, for the duration of the Work and until four (4) years after the date of final payment by Owner to Supplier pursuant to the Purchase Order.

(c) Owner or its authorized representative shall have access during normal working hours, to all necessary facilities of Supplier and its Subcontractors, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this Article. Owner shall give Supplier and its Subcontractors reasonable advance notice of intended audits.

(d) Supplier agrees to maintain such records and accounts for a period of four (4) years from the date of completion of the Purchase Order and to make such records and accounts available for inspection and audit by Owner or its designee at any time during the performance of the Purchase Order or said four (4) years to the extent necessary to verify any reimbursable costs which may be payable hereunder.

(e) Supplier shall require its Subcontractors to comply with the provisions of this Article by insertion of the requirements hereof in any subcontract pursuant to the Purchase Order.

14.0 TAXES

Except as provided herein, Supplier shall pay all Taxes levied on the Work and in connection with Supplier's performance hereunder, including without limitation, applicable Taxes based on or related to the income, receipt, capital or net worth of Supplier, Supplier's or its Subcontractors' Labor or income, sales and use Taxes assessed against Supplier owned, leased or rented equipment, all personal property taxes assessed, if any, by any Governmental Authority with respect to or against any Supplier equipment located at the Work Site, and any amounts related to licenses and permits required for Supplier to carry on business or perform any Work or deliver any goods, but excluding (i) net income taxes or franchise taxes imposed on Owner and (ii) real property taxes assessed against the Work Site and any permanent use charges or assessments such as water or sewer, but excluding charges and Taxes for construction utilities and fuel to be supplied by Supplier as required hereunder, that shall be Supplier's responsibility, except for such Taxes Owner contests in good faith. Where applicable, Owner will apply for a Direct Payment Exemption Certificate. To the extent Owner is granted a Direct Payment Exemption Certificate, or similar mechanism, Owner hereby claims an exemption from the payment of all sales and use Taxes to Supplier upon its purchase of any and all taxable items except for (1) taxable items to be resold by Owner, (2) purchases or rentals of motor vehicles subject to sales, use and similar Taxes and (3) materials or supplies used, transferred or consumed by Supplier in providing a non-taxable service. If applicable law or regulation requires the payment of any sales or use Taxes on account of this transaction which Tax is imposed upon Owner, then such amount of Tax shall be accrued and paid directly by Owner to the State in which the Work Site is located as required by statute. To the extent the Owner is not granted a Direct Payment Exemption Certificate and applicable law or regulation requires the payment of any sales and use Taxes on this transaction then Owner shall pay this Tax directly to the Supplier; if the Supplier is not authorized to collect the Tax then the Owner will accrue this Tax and pay directly to the appropriate Governmental Authority.

15.0 LIEN RIGHTS

Prior to making any payment, Owner in its sole discretion may require Supplier to furnish a release of claims or liens arising out of the Work, or consents of surety, or lien waivers or receipts from Supplier and its Subcontractors and suppliers. Upon request, Supplier shall furnish an acceptable affidavit stating that to its knowledge, the releases and receipts include all the labor, services and material for which a lien could be filed. If any lien arises as a result of the Work, Supplier shall immediately take all steps necessary to obtain the release of such lien and indemnify the Owner Parties from and against the lien and any and all costs and expenses associated therewith, including reasonable attorney's fees.

16.0 SETOFF

All claims of Owner for money due or to become due to Owner by reason of any Claim arising out of this or any other transaction with Supplier shall be subject to deduction or setoff by Owner.

17.0 FORCE MAJEURE

If either Party is delayed in the performance of the Work or of any other obligation due to unforeseeable causes beyond the Party's reasonable control, such as acts of God, acts of civil or military authority, fires, strikes (other than the affected Party's personnel), floods, epidemics, quarantine restrictions, war, or riot, the date of delivery or performance of any other obligations hereunder may be extended for a period of time not to exceed the time lost by reason of the delay; provided, however, that the affected Party is using diligent efforts to avoid and/or mitigate the effect of such occurrence . Any Party claiming a force majeure delay shall provide a prompt notice (not to exceed three business days) to the other party of such delay the cause thereof and the anticipated extent of such delay.

18.0 TERMINATION

Owner reserves the right to cancel or suspend, at any time, by written notice, in whole or in part, the Purchase Order. Except in the case of termination for breach, Owner's sole obligation shall be to pay Supplier all amounts due and not previously paid to Supplier for goods furnished or services rendered in accordance with the Purchase Order. IN NO EVENT SHALL OWNER BE LIABLE TO SUPPLIER FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES OR ANTICIPATED PROFIT, OVERHEAD OR INDIRECT COSTS. Refusal or failure of Supplier to deliver the goods or perform the Work and/or services in accordance with the delivery schedule specified herein or within a reasonable time if no time is specified or failure to make reasonable progress such that timely performance of the Purchase Order in accordance with the terms has been endangered shall be considered breach of the Purchase Order. The remedies herein shall be in addition to and not in lieu of any other remedies Owner may have at law or equity.

19.0 ASSIGNMENT

Owner reserves the right to assign the Purchase Order to successors, affiliates, or subsidiaries without further notice to Supplier. Such assignment shall not require the consent of Supplier. Supplier shall not assign or subcontract any of its rights or obligations under the Purchase Order without Owner's prior written consent. In no event shall Owner's written consent be construed as discharging or releasing Supplier from the performance of its obligations specified in the Purchase Order. Supplier shall remain jointly and severally liable with any assignee of its rights or obligations. Any assignment made in contravention of this Article shall be null and void for all purposes. To the extent that there are successors or assigns permitted under this Article, the Purchase Order shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

20.0 INDEPENDENT CONTRACTOR

DURING THE PERFORMANCE OF THE PURCHASE ORDER, SUPPLIER SHALL BE AN INDEPENDENT CONTRACTOR AND NOT AN AGENT OF OWNER; AND NO PRINCIPAL-AGENT OR EMPLOYER-EMPLOYEE RELATIONSHIP, OR PARTNERSHIP, OR JOINT VENTURE SHALL BE CREATED. SUPPLIER SHALL NOT HAVE, NOR HOLD ITSELF OUT AS HAVING, ANY RIGHT, POWER OR AUTHORITY TO ASSUME, CREATE, OR INCUR ANY EXPENSE, LIABILITY, OR OBLIGATION ON BEHALF OF OWNER, EXCEPT AS EXPRESSLY PROVIDED HEREIN. SUPPLIER REPRESENTS TO OWNER THAT IT IS PROPERLY EQUIPPED, ORGANIZED, STAFFED, FINANCED, EXPERIENCED, QUALIFIED, INSURED, AND LICENSED TO PERFORM THE WORK UNDER THE PURCHASE ORDER.

21.0 PROPRIETARY INFORMATION & CONFIDENTIALITY

Supplier shall consider all information furnished by Owner and the work product developed by Supplier pursuant to the Purchase Order is and shall remain the proprietary and confidential information of Owner. Supplier shall not disclose any such information or work product to any other entity or person, or use such information or work product for any purpose other than performing Supplier's obligation(s) under the Purchase Order unless Supplier obtains prior written consent from Owner. Supplier shall safeguard Owner's information and work product with at least the same degree of care (which shall always be at least a reasonable amount of care) that it uses to safeguard its own confidential, proprietary, and trade secret information. Supplier shall not engage in any advertising, publicity, or other promotional activity that directly or indirectly mentions or refers to Owner, the relationship between the Parties, or the Work provided under the Purchase Order without submitting said information or release to Owner for review and written consent. Supplier shall promptly return or destroy Owner's information and work product upon the expiration or termination of this Purchaser Order or otherwise upon Owner's written request. The terms of this Article shall survive the termination or expiration of the Purchase Order.

22.0 NON-WAIVER OF RIGHTS

The failure of Owner to insist upon strict performance of any of the provisions hereof, or its failure or delay in exercising any rights or remedies provided herein or by law, or Owner's Acceptance of, or use of or payment for the Work, or any part or combination thereof, or any approval of Work by Owner, or any purported oral modification or rescission of the Purchase Order, or any part hereof, by any employee or other authorized representative of Owner shall not release Supplier of any of its obligations under the Purchase Order and shall not be deemed as a waiver of any of Owner's rights to insist upon strict performance hereof or of any of Owner's rights or remedies under the Purchase Order or by law, and shall not operate as a waiver of any of the provisions hereof.

23.0 GOVERNING LAW

The definition of terms used, interpretation or construction of this Agreement and the rights of all Parties hereunder shall be interpreted, construed and governed by the laws of the State to which the goods are delivered or in which Work is performed. If goods are delivered to or Work is performed in more than one state, then the laws of the State of Texas shall apply without reference to any provision that would direct the application of the substantive law of any other jurisdiction.

24.0 LIMITATION OF LIABILITY

(a) TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR, AND EACH PARTY HEREBY WAIVES AND RELEASES THE OTHER PARTY FROM AND AGAINST, THE CLAIMING PARTY'S SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, AND CONSEQUENTIAL LOSS OR DAMAGE, WHETHER OR NOT FORESEEABLE, WHETHER OR NOT SUCH LOSS OR DAMAGE IS CAUSED BY THE FAULT OR NEGLIGENCE OF SUCH PARTY, ITS EMPLOYEES, AGENTS, OR SUBCONTRACTORS OF ANY TIER, AND WHETHER OR NOT BASED UPON BREACH OF CONTRACT OR WARRANTY, THE FAILURE OF ANY REMEDY HEREUNDER FOR WANT OF ITS ESSENTIAL PURPOSE, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHER THEORY OF LIABILITY.

(b) The Parties mutual waivers in Article 24.0 (a) are not intended to apply to:

(i) The actual costs incurred by Owner to procure replacement work in the event of any default by Supplier;

(ii) Any amounts paid by Owner to settle the claims or release the liens of any Supplier Parties or third parties, including but not limited to, payments made pursuant to Articles 9.0 [PATENT & COPYRIGHT INFRINGEMENT] and 15.0 [LIEN RIGHTS];

(iii) Those amounts owned by Supplier pursuant to the express terms of Article 12.0 [WARRANTY];

(iv) Any damages or amounts that may be provided for as part of any indemnity obligations in this Agreement;

(v) The extent that Supplier is insured under policies of insurance being maintained pursuant to this Agreement; or

(vi) Any damages arising from breach of the confidentiality provisions in this Agreement.

(c) EACH PARTY'S TOTAL LIABILITY FOR ANY AND ALL LIABILITY TO THE OTHER PARTY ARISING OUT OF OR IN CONNECTION WITH EACH PARTY'S PERFORMANCE OF THE PURCHASE ORDER WHETHER IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) SHALL NOT EXCEED THE PURCHASE ORDER PRICE EXCEPT, WITH RESPECT TO SUPPLIER'S TOTAL LIABILITY, AS IT APPLIES TO SUPPLIER'S OBLIGATIONS PURSUANT TO ARTICLE 7.0 [INDEMNITY], ARTICLE 6.0 [INSURANCE], ARTICLE 9.0 [PATENT & COPYRIGHT INFRINGEMENT], ARTICLE 12.0 [WARRANTY], SUPPLIER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND THE ACTUAL COSTS INCURRED BY OWNER TO PROCURE REPLACEMENT WORK IN THE EVENT OF ANY DEFAULT BY SUPPLIER.

(d) The provisions of this Article 24.0, Article 7.0 [INDEMNITY], Article 6.0 [INSURANCE], Article 9.0 [PATENT & COPYRIGHT INFRINGEMENT], and Article 12.0 [WARRANTY] shall also apply to Subcontractors and shall apply to the full extent permitted by law and shall survive termination of the Purchase Order and/or completion of the Work hereunder.

25.0 STATUTORY EMPLOYER

This Article shall apply only in the event and to the extent the Work is performed in Louisiana. Supplier and Owner acknowledge and agree that all work performed by Supplier are an integral part of and essential to the ability of Owner to generate its goods, products, and services. Supplier and Owner agree that Owner is and shall be deemed a statutory employer of Supplier employees providing Work under the Purchase Order for purposes of LA. REV. STAT. ANN. 23:1061(A)(3), as the same may be amended from time to time. In further consideration of the amounts to be received by Supplier pursuant to the Purchase Order, Owner and Supplier agree that Supplier shall be responsible for the payment of all compensation benefits paid to or for the benefit of Supplier's employees. Supplier and/or Supplier's underwriters agree that they shall have no right to seek and shall not seek any contribution or indemnity from Owner for any compensation benefits paid by Supplier and/or Supplier's underwriters.

26.0 SUPPLIER DIVERSITY

In the event that Supplier utilizes a subcontractor or any third party supplier in the performance of the Purchase Order (a "Subcontractor"), Owner reserves the right to establish diverse supplier goals for Supplier's utilization of Subcontractors. Owner may further require Supplier to report supplier utilization in accordance with Owner's internal diversity policies.

27.0 SUSTAINABILITY

Supplier shall utilize green products and services to the maximum extent practicable, consistent with the requirements of relevant Federal procurement preference programs. In addition to the foregoing, Supplier shall use best efforts to purchase products that are sustainably sourced whenever such products are available at the same or a lesser total costs than products that are not sustainably sourced.

28.0 EQUAL EMPLOYMENT OPPORTUNITY

Supplier and its Subcontractor(s) shall abide by the requirements of 41 CFR 60-1.4(a)(7), 41 CFR 60-300.5(a), 41 CFR 60-741.5(a). The regulations at 41 CFR 60-1.4(a)(7) prohibit discrimination on the bases of race, color, sex, sexual orientation, gender identity, religion, national origin or other legally protected status, and require affirmative action by covered prime contractors and subcontractors to ensure that applicants are employed and that employees are treated during their employment without regard to their race, color, sex, sexual orientation, gender identity, religion, national origin, or other legally protected status. The regulations at 41 CFR 60-300.5(a) prohibit discrimination against qualified protected veterans, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. The regulations at 41 CFR 60-741.5(a) prohibit discrimination against qualified individuals on the basis of disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

29.0 ASBESTOS MATERIALS; LEAD-BASED PAINT

The supply or furnishing of materials and/or products containing asbestos is prohibited. This prohibition includes such items as packing, gaskets, coating or wiring insulations, even though the item is encapsulated or the asbestos fibers are impregnated with a binder material. In the event an acceptable substitute cannot be located, the supply or furnishing of materials and/or products containing asbestos must be specifically approved in writing by Owner. A "Safety Data Sheet" (SDS) must be provided with all approved materials and/or products. Supplier acknowledges that Supplier has been notified that ACM (asbestos containing material), PACM (presumed asbestos containing material) and lead based paint may be located at Work Site. Supplier acknowledges that during the course of the Work, Supplier, its employees and/or its Subcontractors' employees may find ACM, PACM, or lead-based paint present at the Work Site. Supplier assumes full responsibility and liability for providing proper employee health protection and equipment for its Personnel and subcontract personnel who may be exposed to ACM, PACM, or lead-based paint. Supplier shall immediately notify the Owner if Supplier discovers exposed ACM, PACM, or lead-based paint or if Work requires the handling, removal or disposal of such materials. SUPPLIER FURTHER AGREES THAT ITS INDEMNITY OBLIGATIONS SPECIFIED IN ARTICLE 10.0 INDEMNITY, INCLUDES CLAIMS ARISING FROM OR RELATED TO SUPPLIER'S OR ITS SUBCONTRACTORS' PERSONNEL'S EXPOSURE TO OR INHALATION OF ACM, PACM, OR LEAD-BASED PAINT.

30.0 STANDARDS, CODES, LAWS, REGULATIONS, AND PERMITS; ANTI-BRIBERY AND ANTI-CORRUPTION COMPLIANCE

(a) Supplier shall cause all Supplier Parties to comply with all applicable laws, rules and standards of all federal, state, local and municipal Governmental Authority having jurisdiction over the Work covered by the Purchase Order including, without limitation, the U.S. Foreign Corrupt Practices Act ("FCPA"), and all anti-bribery and anti-corruption laws of the countries in which Supplier Parties do business. Without limitation of the foregoing, Supplier represents, warrants and covenants that (i) Supplier Parties are familiar with and understand the FCPA and any other applicable anti-bribery or anti-corruption laws related to the Work or any other transaction they conduct with Owner or NRG, (b) that Supplier Parties have not paid, made, promised to make, authorized, or ratified, directly or indirectly, any payment of money or gift or anything of value to any foreign official (as defined in the FCPA) to obtain or retain business in connection with the Work or any other transaction they conduct with Owner or NRG, and (c) Supplier Parties will not in the future engage in conduct that would violate the FCPA, to the extent they are subject to it, or any other applicable anti-bribery or anti-corruption laws in connection with the Work or any other transaction involving NRG.

(b) Supplier shall, at its own expense, protect, defend, indemnify and hold harmless Owner Parties from and against all liability, loss or damages assessed against or incurred by any of Owner Parties (including reasonable attorneys' fees and other court costs incurred by any party indemnified hereunder) or otherwise suffered by any party indemnified hereunder as a result of noncompliance by Supplier with this Article.

(c) Supplier shall secure and pay for all permits, governmental fees and licenses necessary for proper execution and completion of the Work, unless otherwise specified in the Purchase Order.

31.0 NOTICE

Except as otherwise provided herein, all notices and communications are required to be in writing and shall be delivered in written form by letter, facsimile or other documentary form to the Buyer referenced on the header of the Purchase Order. Notice by hand delivery shall be deemed to have been received by the close of the day on which it was hand delivered or such earlier time confirmed by the receiving party. Notice by overnight mail or courier shall be deemed given on the date of delivery. Any notice made by facsimile shall be deemed received simultaneously with confirmation of receipt of transmission thereof if sent during business hours or at the start of the next business day if sent after business hours. Any party hereto may change its address, phone and facsimile numbers, or designation of contact persons by providing ten (10) days prior written notice in accordance with this Section.

32.0 COUNTERPARTS; FACSIMILE SIGNATURES

The Purchase Order may be executed in more than one counterpart, including by facsimile signatures or .pdf signatures, each of which shall be deemed an original, but all of which collectively will constitute one and the same instrument. To the extent applicable, any acceptance of the Purchase Order by affirmation through the Electronic Data Interchange shall be deemed a binding acceptance of the Purchase Order and shall be valid as a signature.

33.0 ENTIRE AGREEMENT

This Agreement and any additional terms and conditions incorporated into and attached hereto or referenced herein, constitute the sole, entire, and exclusive agreement between the Parties. Parol or extrinsic evidence shall not be used to vary or contradict the express terms of this Agreement, and recourse shall not be had to alleged prior dealings, usage of trade, course of dealing, or course of performance to vary or contradict the express terms of this Agreement. This Agreement shall not be amended or modified, and no waiver of any provision hereof shall be effective, unless set forth in a written instrument authorized and executed by duly authorized representatives of both Parties with the same formality as this Agreement. Any provision of this Agreement that is prohibited or unenforceable in any applicable jurisdiction shall, as to that jurisdiction, be ineffective to the extent of that prohibition or unenforceability, without invalidating the remaining provisions hereof or affecting the validity or enforceability of that provision in any other jurisdiction. Any provisions of this Agreement, which by their express terms or by their nature are continuing, shall survive termination or expiration of this Agreement.