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## General Conditions for Construction Services

### GC-1 DEFINITIONS

GC-1.1 The definitions set forth below apply to all of the Contract Documents and are expressly incorporated into the same by this reference:

“Access Roads” mean all roads which are used to gain access to the Work. “Access Roads” are in three categories:

1. Existing roads to the Work that do not need to be improved.
2. Existing roads to the Work that must be improved.
3. Roads that are to be constructed as part of the Work.

“Addenda” means written or graphic instruments issued by IPC prior to the opening of bids and the execution of the Agreement that clarify, correct, or modify the bidding and performance requirements or the bidding documents by additions, deletions, clarifications, or corrections.

“Additional Work” means labor, services, materials, equipment, transportation, tools, or facilities requested by IPC in writing, outside the original scope of Work, not inferable as within the Project, and not included in the Contract Documents. Where the context requires, the term “Additional Work” may also mean a modification that results in a reduction or deletion in Work.

“Application for Progress Payment” is defined in Section GC-19.2 of these General Conditions for Construction Services (“General Conditions”).

“Approved Schedule” means all critical and interim progress dates, as set forth in the Agreement and Contract Documents associated with Contractor’s performance of the Work. The Approved Schedule includes all Milestone Dates (if applicable) and other critical dates, from Commencement Date to Final Completion Date.

“Approved,” “Considered Necessary,” “Acceptable,” “Satisfactory,” or words of like import, mean approved or considered necessary by, acceptable, or satisfactory to IPC’s Authorized Representative, unless another meaning is plainly intended.

“Certificate of Substantial Completion” is defined in Section GC-20 of these General Conditions.

“Change Order” means a written agreement between IPC and Contractor that affects the Work, and may affect the Guaranteed Substantial Completion Date, Approved Schedule, the Contract Price, and such other terms of the Contract Documents as are agreed upon by the Parties.

“Collateral Work” means work being carried out by IPC through separate contractors or consultants, IPC’s employees, or agents that may be at or near the Work site.

“Commencement Date” means the date Contractor commences the Work as specified by IPC or, if no Commencement Date is specified, as promptly as practicable following the Effective Date of the Agreement.

“Construction Roads” mean all roads improved or constructed for the convenience of or to accommodate Contractor but are not a part of the Work.

“Contractor’s Authorized Representative” means a designated representative authorized to act with full authority for Contractor. Contractor agrees to appoint a competent and qualified representative and shall grant such representative authority to make binding and enforceable decisions for Contractor. Contractor shall inform IPC in writing of the name, address, and telephone number of such

representative. IPC shall have the right to approve or reject Contractor's Authorized Representative. Contractor's Authorized Representative shall not be changed without advance written notice to IPC and approval of the replacement by IPC.

"Contract Documents" are defined in the Agreement but shall in no event include submittals or subsurface information. In case of any inconsistency, conflict or ambiguity among the Contract Documents, Contractor shall promptly notify IPC of the inconsistency, conflict, or ambiguity and IPC will provide written clarification of IPC's intended meaning.

"Contract Price" means the amount set forth in the Agreement as total compensation payable to Contractor for the Work upon its full, timely, and satisfactory completion of the Work and Project, as that amount may be amended from time to time by Change Order, as provided in the Contract Documents.

"Contract Time" means the period of time between the Commencement Date and Final Completion Date as set forth in the Agreement.

"Date of Final Completion" is defined in Section GC-21 of these General Conditions.

"Day" or "day" means calendar day, unless otherwise specified.

"Delay Claims" mean claims by Contractor for additional time made under Section GC-15 of these General Conditions.

"Delay Liquidated Damages" mean the liquidated damages payable pursuant to the Agreement by Contractor to IPC in the event of failure to attain Substantial Completion of the Work by the Guaranteed Substantial Completion Date.

"Directive" means a written statement issued by IPC, directing performance of Additional Work prior to any agreement or adjustment in Contract Price or Contract Time. A Directive shall propose whether and to what extent the Contract Price or Contract Time should be adjusted. A Change Order will be issued to change the Contract Documents.

"Drawings" mean, collectively, all maps, plans, or drawings and any such supplementary drawings as IPC may issue from time to time.

"Elevation" and the figures or values in reference thereto, or an abbreviation thereof, mean the elevation relative to United States Geological Survey Sea Level Datum, as represented by various benchmarks in the vicinity of the Work, or shall mean the elevation relative to the arbitrary datum plane fixed by IPC for the particular Work.

"Engineer of Record" or "Engineer" means the person or firm that developed the Drawings and Technical Specifications. The Engineer reports to IPC.

"Float" means the number of days by which an activity on the Approved Schedule may be delayed from its earliest start date without necessarily extending the Guaranteed Substantial Completion Date.

"Final Completion" is defined in Section GC-21.2 of these General Conditions.

"Final Completion Date" means the date set forth in the Agreement by which the Contractor must achieve Final Completion of the Work.

"Force Majeure Event" means an event or circumstance that causes a breach, default, or delay in the performance of obligations under the Contract Documents, where such event involves a fire, flood, earthquake, atypical elements of nature, riots, civil disorders, rebellions or revolutions in any country, changes in governmental rules, laws, regulations, ordinances, permits, or licenses, relating to the Work, or any other cause beyond the reasonable control of the Party claiming such Force Majeure Event; provided, a Force Majeure Event claimed by Contractor requires that (i) Contractor and its Subcontractors are without fault in causing such breach, default, or delay, and (ii) such breach, default,

or delay could not have been anticipated or prevented by reasonable precautions and cannot reasonably be circumvented by Contractor or its Subcontractors through the use of alternate sources, work around plans, or other means, and (iii) Contractor has complied with the Notice of Delay provisions in Section 15 of these General Conditions. For purposes of clarity, late performance of services or late delivery of goods by Subcontractors, suppliers, or vendors shall not constitute a Force Majeure Event nor form the basis for limiting any liquidated damages payable in connection with the Contract Documents.

“Guaranteed Substantial Completion Date” means the date set forth in the Agreement by which the Contractor must achieve Substantial Completion of the Work.

“Hazardous Material” means any substance or material identified now or in the future as hazardous under any federal, state, or local law or regulation, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling disposal and/or cleanup.

“IPC’s Authorized Representative” or “IPAR” means the person designated in writing by IPC from time to time to act on its behalf.

“IPC Data” is defined in Attachment A to this Exhibit A to the Agreement.

“Milestone Date(s)” means the interim completion dates set forth in the Agreement by which Contractor must achieve the Milestones described in the Special Conditions (Exhibit C to the Agreement).

“Milestone(s)” means the interim Work, as described in the Special Conditions (Exhibit C to the Agreement), that Contractor must complete to meet the Milestone Dates.

“Notice of Final Completion” means the document Contractor gives to IPC stating that Contractor has determined that Final Completion of the Work and the Project has occurred, as set forth in Section GC-21.1 of these General Conditions.

“Owner” means IPC.

“Progress Payment Schedule” is defined in Section GC-9 of these General Conditions.

“Project” means the total construction, the final intended improvement, or other final result, of which the Work to be performed under the Contract Documents may be the whole, or a part, as set forth in the Agreement.

“Punch List” means the document, prepared by Contractor and IPC in accordance with Section GC-20.2 of these General Conditions detailing the Punch List Items.

“Punch List Items” mean those outstanding items required to complete the Work that, in the reasonable judgment of IPC, do not affect the operability, safety, or mechanical or electrical integrity of the Work or Project. The Punch List Items shall be completed by Contractor prior to Final Completion of the Work, but the failure to complete the Punch List Items shall not prevent the Project from being ready for commercial operations at the full rated output in a safe and continuous manner and in accordance with all laws and permits.

“Record Documents” means all redlined drawings, as-built drawings, samples, Shop Drawings, operation and maintenance manuals, performance curves, warranties, keys, certifications, submittals, and other Project data associated with construction.

“Request For Information” is the Contractor’s form for requesting information as it pertains to the Drawings or Technical Specifications during construction.

“Restoration” or “Restore” means to remove all waste or excess construction materials; clean up and dispose all brush, trees, and debris; grade and reseed all disturbed areas; and repair and replacement of any and all property damage caused by Contractor.

“Safety Program” is defined in Section GC-5.4 of these General Conditions.

“Samples” mean physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

“Schedule of Submittals” means the detailed timeline for performance of the submittal activities on the Project.

“Schedule of Values” is defined in Section GC-9 of these General Conditions.

“Shop Drawings” mean all Drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

“Specifications”, or “Technical Specifications” mean, collectively, all terms and requirements pertaining to the Work and any amendments, revisions, deductions or additions thereto, and all written agreements made or to be made, pertaining to the Work or to the quantities and qualities of labor, materials, or equipment to be constructed, installed, or furnished by Contractor.

“Subcontractor” means a person or entity that performs or furnishes any portion of the Work for Contractor or Subcontractor, at any and all tiers. The term Subcontractor does not include the Engineer or any separate contractor employed by IPC. The term Subcontractor does include, without limitation, contractors, consultants, and material suppliers.

“Substantial Completion” is defined in Section GC-20.1 of these General Conditions.

“Unit Price Work” means Work in which all or a part of the Contract Price is based upon agreed unit prices set forth in a Schedule of Unit Prices.

“Warranty Notice” is defined in Section GC-23 of these General Conditions.

“Warranty Period” is defined in Section GC-23 of these General Conditions.

“Work” means all materials, equipment, labor, engineering, and services described in the Contract Documents and incidental to or reasonably inferred to be necessary for the full and satisfactory completion of the Project consistent with IPC’s intended results.

“Work Clarification” means IPC’s form for resolving additional information requests, clarifying conflicting information, issuing Additional Work, or interpreting discrepancies found during construction. The Work Clarification may or may not result in a Change Order.

“Work site” means the geographical area in and around which the Work is to be performed, and the ingress and egress thereto.

GC-1.2 Prior to taking action on any term(s) which is ambiguous, unclear, conflicting, or not otherwise defined in the Contract Documents, Contractor agrees to refer such term(s) to IPC for interpretation.

## **GC-2 IPC’S AUTHORIZED REPRESENTATIVE**

GC-2.1 IPC shall furnish an IPAR to act on behalf of IPC under this Agreement.

GC-2.2 IPC or the IPAR may observe Contractor’s Work in progress, perform field checks of materials and equipment to certify performance of Work for purposes of authorizing payment and completion, or perform such other functions as IPC deems advisable. Such observations shall not be construed to create an obligation on the part of IPC to make on-site observations to check the quantity or quality of the Work. IPC shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in

connection with the Work, since these are solely the Contractor's responsibilities under the Contract Documents.

GC-2.3 IPC, by and through the IPAR, reserves the right to stop Work, request the removal of an employee, agent, or representative of Contractor from the Work site, or take such other action the IPAR deems reasonable in the event the IPAR observes a potentially life threatening or otherwise dangerous situation. IPC or the IPAR may also stop Work if the person sought to be removed poses a danger to himself, others or to property, as judged by the IPAR. Delay caused by IPC's exercise of this right shall not be the basis for a claim for additional compensation from Contractor, based on Section GC-15 relating to Delay Claims, or otherwise, and Contractor shall bear all costs and expenses of catch-up work required to put the Work in compliance with the Approved Schedule when Work resumes after being stopped in accordance with this Section.

GC-2.4 None of the IPAR's assistants or agents shall have the authority to waive on behalf of IPC any of the obligations of Contractor. Waiver of any obligation may only be accomplished in writing, with the signatures of Contractor and IPC.

### **GC-3 CONTRACTOR'S AUTHORIZED REPRESENTATIVE**

GC-3.1 Contractor shall provide a Contractor's Authorized Representative having competent on-site supervision during any and all construction activities by the forces of Contractor or Subcontractors. Contractor's Authorized Representative shall be the single point of contact with IPC. Contractor's Authorized Representative shall be identified in the Agreement, and at a minimum be on-site from the Commencement Date to the Date of Final Completion. The Contractor's Authorized Representative shall be authorized to act on Contractor's behalf with respect to the Work. If Contractor desires to change the person serving as Contractor's Authorized Representative, IPC reserves the right, within its sole and reasonable discretion, to deny Contractor's selected replacement of the Contractor's Authorized Representative. IPC shall have the right to approve the person proposed to replace the Contractor's Authorized Representative.

GC-3.2 Contractor's Authorized Representative shall be responsible for administration of the day-to-day operation of the Project and the Work site safety for Subcontractors, Contractor, Contractor's agents and employees, all workers, vendors, and members of the public.

GC-3.3 Contractor's Authorized Representative shall give personal attention constantly to the faithful prosecution of the Work, and shall be present in person on the site of the Work continually during its progress.

### **GC-4 IPC'S RESPONSIBILITIES**

GC-4.1 IPC shall furnish the data and documents required of IPC under the Contract Documents. Contractor shall make requests for such data and documents so as to allow IPC reasonable time to respond without delaying the performance of the Work.

GC-4.2 IPC shall make undisputed payments to Contractor when they are due as set forth in Section GC-19 and the Contract Documents.

GC-4.3 IPC shall perform construction inspections, tests, and approvals as set forth in Section GC-13.

GC-4.4 IPC shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incidental thereto, or for any failure of Contractor to comply with the laws and regulations applicable to the performance of the Work. IPC shall not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

### **GC-5 CONTRACTOR'S RESPONSIBILITY**

GC-5.1 Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in

accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

#### GC-5.2 Subcontractors.

GC-5.2.1 Contractor may cause any part of the Work to be performed by a Subcontractor; provided however that Contractor shall require, by written agreement, Subcontractors and its officers, agents and employees to be bound by the provisions of the Contract Documents in all respects and assume toward the Contractor all of the obligations and responsibilities that Contractor, by this Agreement, assumes toward IPC. Contractor shall require Subcontractors to enter into similar written agreements with its Subcontractors. Each such agreement shall preserve and protect the rights of IPC under this Agreement with respect to the Work to be performed by the Subcontractor, so that Contractor's subcontracting or otherwise delegating thereof will not prejudice such rights. Contractor shall not, in any manner thereby, be discharged from its obligations and liabilities hereunder, but shall be liable and responsible for all acts, omissions, and negligence of any Subcontractor, and their officers, agents, and employees. Contractor and its Subcontractors shall comply at all times with FAR 52-219-8, *Utilization of Small Business Concerns*. Idaho Power reserves the right, within its sole and reasonable discretion, to deny Contractor's use of any Subcontractor. Upon request of IPC, copies of all subcontracts shall be furnished to IPC and the IPAR.

#### GC-5.3 Contractor's Responsibility for Work and Safety.

GC-5.3.1 Notwithstanding any provision in the Contract Documents to the contrary, Contractor shall at all times be responsible for, and shall not be relieved of, its obligations to secure the quality of Work, the safe conduct of the Work and safety of the Work site, and the rate of progress required by the Contract Documents. Contractor alone shall be and remain solely liable and responsible for the means, methods, techniques, procedures or sequences selected by Contractor and Subcontractor, for safety precautions and programs incident to the Work in progress, and for any failure of Contractor and Subcontractor to comply with safety laws and regulations applicable to the Work.

#### GC-5.4 Protection of Workers and Others.

GC-5.4.1 Contractor shall be solely and completely responsible for the training of its employees and the conditions of the Work site, including without limitation, the safety of all persons and property during the performance of the Work. This requirement will apply continuously and will not be limited to normal working hours. Contractor shall be responsible to:

- a. Develop a safety program applicable to all construction phases of the Project ("Safety Program"). The Safety Program shall require all of the employees and agents of Contractor and all Subcontractors to comply with federal, Occupational Safety and Health Administration ("OSHA") law and regulations, and any other federal, state and local safety and health laws, orders, ordinances, and regulations. In any situation where any law or regulation is in conflict with any other law or regulation, Contractor and Subcontractor shall follow the most stringent requirements.
- b. Assure that all employees and agents of Contractor and Subcontractors are informed of the applicable provisions of the Safety Program.
- c. Provide designated safety personnel at the Work site whose responsibilities shall include:
  - i) Regular inspection of the Work site for compliance with federal, OSHA, state and local safety and health laws and regulations relating to work safety and health.
  - ii) Maintenance of a detailed written record evidencing the conduct of inspections of the Work site, the detection of acts or practices by employees or agents of Contractor or Subcontractor that are not in compliance with the Safety Program or applicable law, and

the corrective action taken by Contractor to maintain compliance with the Safety Program and applicable law.

- iii) Conducting weekly meetings with employees and agents of Contractor and Subcontractor to discuss matters related to the Safety Program and compliance therewith.
  - iv) Implementation and adherence to the Safety Program, including without limitation the undertaking of corrective action to maintain adherence to the Safety Program and applicable law.
- d. Provide personal protective equipment (“PPE”) for all employees and agents of Contractor and all Subcontractors, as required by OSHA.
  - e. Immediately report to IPC all incidents, including without limitation, accidents, injuries and all incidents involving the public or other utilities, arising out of or in connection with the Work. Additionally, within 48 hours of the incident, Contractor shall provide to IPC a written incident investigation report in substantially the same form included in Annex A to the Agreement or, if no form is included in Annex A, then in a form acceptable to IPC.

GC-5.4.2 Notwithstanding IPC’s rights in Section GC-33, if IPC observes and is aware of a practice or condition which poses an immediate threat of personal injury or harm at the Work site, IPC reserves the right to direct Contractor to immediately eliminate such practice or condition. If IPC does direct Contractor to immediately eliminate such practice or action, Contractor shall cease all activities to the extent necessary to avoid the risk of imminent harm or injury at the Work site.

GC-5.4.3 None of the rights retained by IPC as herein specified shall be interpreted to, nor shall create any obligation on the part of IPC to conduct Work site safety inspections, or to otherwise develop or implement a Work site Safety Program or practices, or assume any responsibility for safe conditions of the Work site, the same being the sole and exclusive responsibility of Contractor.

#### GC-5.5 Contractor’s Employees.

GC-5.5.1 Contractor shall immediately remove from the Work and the Work site, any person who is, may be, or appears to be, creating any unsafe condition, disorder or disruption, or who is disposed to be disorderly, or who is not skilled or competent to perform the Work, and such person shall not thereafter be permitted on the Work site.

GC-5.5.2 Contractor acknowledges and agrees that certain portions of the Work may be specialized work appropriate for workers skilled not only in the general trade but also for workers who have specialized expertise in the particular line of Work required. Contractor agrees that such Work shall be performed by workers who are skilled and specialized in the Work to which they are assigned. Contractor is solely responsible for making sure that all of its employees and workers have been adequately trained for the Work to which they are assigned. Upon request by IPC, Contractor shall provide evidence of required licenses and certifications.

GC-5.5.3 None of the Contractor’s superintendents, supervisors, or engineers may be withdrawn from the Work without Contractor providing due written notice to IPAR; provided, however, that no such withdrawal shall be made if it will jeopardize successful completion of the Work.

#### GC-5.6 Provisions Relating To Labor and Rates of Wages.

GC-5.6.1 Contractor shall be responsible for maintaining labor relations policies and procedures in such a manner as to reasonably provide harmony among workers, and shall invoke National Labor Relations Board procedures for the resolution of jurisdictional disputes when available and appropriate. Contractor shall cooperate and require its Subcontractors to cooperate with IPC and other contractors in establishing and maintaining Work rules and practices as needed in the general interest of the Project and Work, and shall cooperate insofar as is lawful and

practicable in achieving the prompt resolution of labor disputes at the Project; provided that, Contractor and IPC shall each separately and solely be responsible for labor relations policies as they affect their own employees. Contractor shall inform IPC in writing of developments in labor relations or collective bargaining which may result in picketing or Work stoppages at the Project. Contractor shall ensure Subcontractors comply with these provisions with respect to cooperation on labor relations. Contractor shall be responsible for paying, and for requiring Subcontractors to pay, all employees performing Work at the Project wages and benefits not less than that required by law, or by applicable labor agreement in the case of unionized Subcontractors, or by applicable wage and personnel policies in the case of nonunion Subcontractors. Contractor and Subcontractors shall be responsible for compliance with all state and federal laws, ordinances, regulations, and statutes dealing with labor relations that are applicable to said Contractor's and Subcontractor's employees, including without limitation, laws dealing with maximum hours of Work and overtime premium pay.

#### GC-5.7 Weapons and Intoxicants.

GC-5.7.1 Contractor shall not permit the possession or use of weapons upon the Work site or upon any premises occupied or controlled by Contractor pertaining to the Work. While performing Work for IPC, Contractor, Subcontractors at all tiers, and their respective employees and agents shall not possess, use, sell or be under the influence of alcohol, drugs, or other controlled substances (excluding those used or possessed pursuant to a valid prescription and which do not adversely affect the Work).

#### GC-5.8 Materials, Equipment, and Tools.

GC-5.8.1 Contractor shall, at its expense, furnish all material, labor, tools, false work, scaffolding, cribbing, rigging, water, air, steam, electrical energy, equipment, supplies, and all other miscellaneous items that may be required to accomplish the Work, unless otherwise specifically stated in the Contract Documents. Contractor shall mark all of its tools and equipment so that they can easily be identified as belonging to Contractor.

GC-5.8.2 Contractor shall transport, store, and protect all IPC-furnished materials and equipment after issuance or transfer from IPC to Contractor or its agents and shall be responsible for the IPC-furnished materials and equipment throughout the performance of the Work. Contractor shall be solely liable for any damage (whether to person or property), loss, or theft to IPC-furnished materials or equipment once the materials or equipment are issued or transferred to Contractor until such time as Final Completion of the Work or until excess materials and all equipment are returned in undamaged condition to IPC's designated warehouse, storage yard, or other IPC-designated location. Contractor shall maintain appropriate insurance to fully protect IPC's interest set forth in this Section.

GC-5.8.3 Contractor shall return to IPC's designated salvage, warehouse, or other IPC-designated location all excess, unused, salvaged and scrap material removed from existing installations to IPC's designated salvage, warehouse, or other IPC-designated location unless otherwise specifically stated in the Contract Documents or unless specifically authorized otherwise in writing by IPC.

#### GC-5.9 Protection of the Work.

GC-5.9.1 Contractor shall take all precautions necessary to protect the Work, shall be responsible for the protection and safekeeping of the Work, and shall maintain all lights, guards, signs, temporary passages, or other protection necessary for that purpose. All Work shall be done at Contractor's risk, and Contractor shall promptly repair or replace any loss or damage resulting from fire or from any other cause free from all expense to IPC. Contractor shall be responsible for any loss or damage to material, tools, equipment or other articles used or held for use in connection with the Work. Contractor shall perform the Work to completion without damage to

any Work, Collateral Work, or property of IPC or of others and without interference with the operation of existing machinery or equipment.

#### GC-5.10 Cleaning Up.

GC-5.10.1 As a part of the Work, Contractor shall completely remove and satisfactorily dispose of all temporary works; shall tear down and dispose of all temporary buildings; shall remove or grade, to the extent directed, all embankments or cofferdams made for construction purposes; shall restore all temporary rights-of-way and Access Roads; shall satisfactorily fill excavations as directed; shall remove all construction plant and equipment; shall satisfactorily dispose of all rubbish and waste resulting from operations under the Contract Documents; and shall do all work necessary to restore the Work site to at least as good an order and condition as at the beginning of the Work. If Contractor fails to clean up as provided in this Section, IPC may do so and the cost thereof shall be charged to the Contractor and withheld from IPC's pay to Contractor.

#### GC-5.11 Record Documents / As-Builts.

GC-5.11.1 Contractor shall maintain in a safe place at the Project site two record copies of all Drawings, Specifications, Change Orders, Directives, and Work Clarifications in good order and annotated to show changes made during construction. These Record Documents, together with all approved Samples and a counterpart of all approved Shop Drawings, shall be available to IPC for reference at all times during and at the completion of the Work. These Record Documents, Samples, Shop Drawings, operation and maintenance manuals, performance curves, and other Project data shall be delivered to IPC prior to Substantial or Final Completion of the Work, as set forth in Exhibit C to the Agreement.

#### GC-5.12 Weekly Meetings and Reports.

GC-5.12.1 When requested by IPC, Contractor and designated Subcontractors shall participate in weekly meetings with IPC and other necessary and desired persons and entities. Such meetings shall be held at the Project site unless approved otherwise by IPC. Contractor shall prepare, circulate, and correct minutes of such meetings. Contractor shall also prepare and submit to IPC, no less frequently than monthly, written reports on the progress of the Work in such form and in such detail as reasonably required by IPC.

#### GC-5.13 Three-way Communication Training.

GC-5.13.1 To the extent any of Contractor's employees, or the employees of any Subcontractor, may engage in oral two-party, person-to-person communication with IPC personnel by means of a two-way communication system to obtain or release clearance orders and/or perform switching activities related to the Work, and in accordance with the requirements of the North American Electric Reliability Corporation's mandatory standard *COM-002—Operating Personnel Communications Protocols*, all such employees shall receive three-way communication training prior to commencement of any Work under this Agreement. Contractor shall ensure, and shall certify pursuant to a signed attestation form ("Attestation Form"), that such three-way communication training has been provided its employees, and the employees of any Subcontractor, who may engage in any of the activities described in this Section GC-5.13.1. Contractor shall submit all completed Attestation Forms to IPC within 10 days following commencement of Work under this Agreement. If requested by IPC, Contractor shall provide an updated Attestation Form.

### **GC-6 CONTRACTOR INFORMED AS TO CONDITIONS**

GC-6.1 Contractor acknowledges and agrees that it has examined all the available records and has conducted a field examination of the Project site and right-of-way; and that it is informed of the subsurface conditions and surface and subsurface water conditions to be encountered, the character

of equipment and facilities needed for the prosecution of the Work, the location and suitability of all construction materials, the quantities in the various sections of the Work, the local weather and labor conditions, laws applicable to the Work, and all other matters in connection with the Work and services to be performed under the Contract Documents. Any errors, inconsistencies, or omissions discovered or reasonably known to Contractor during this examination shall be reported promptly in writing to IPC.

GC-6.2 Any records of subsurface condition, water records, or other observations that may have been made by IPAR or IPC have been made in good faith. Such records may be made available to Contractor for its information; provided that IPC makes no expressed or implied representation, warranty, or guarantee as to the accuracy of the records or any interpretation of them. Contractor agrees that it has formed its own opinions of the character of the Work to be performed and of materials to be excavated from its own inspection of the site and its own interpretation of records and review of the Contract Documents.

GC-6.3 Contractor further agrees that the Contract Price and Approved Schedule is based on its own knowledge and judgment of the conditions and hazards involved, and not upon any representations of IPC or IPAR.

GC-6.4 Contractor acknowledges and agrees that it has examined the Contract Documents. Any design errors or omissions discovered by Contractor during this review shall be reported promptly in writing to IPC.

GC-6.5 Contractor recognizes that electronic media or CADD form (collectively "CADD Files") are not intended to be used for construction, are not Construction Documents under the terms of the Agreement and may result in variances when plotted. Any use of any kind or any changes of any kind to the CADD Files will be at the Contractor's sole risk, and without liability, risk or legal exposure to IPC or its members, partners, officers, directors, agents, and employees or IPC consultants or contractors. In the event Contractor or Subcontractor, uses the CADD Files, Contractor shall release and, to the fullest extent permitted by law, indemnify, hold harmless and defend IPC and its members, partners, officers, directors, agents, and employees and IPC consultants from, for, and against any and all claims, demands, losses, expenses, damages, penalties and liabilities of any kind, including without limitation attorneys' fees and costs, arising out of or relating in any way to such use of or change to the CADD Files.

## **GC-7 INTERPRETATION AND MODIFICATION OF CONTRACT DOCUMENTS**

GC-7.1 The intent of the Contract Documents is to describe a functionally complete Project to be constructed. Contractor agrees and acknowledges that any labor, documentation, services, materials, or equipment that may be reasonably inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided by Contractor, whether or not specifically called for, at no additional cost to IPC. The Contract Documents are to be construed as complimentary. What is required by one shall be considered to be required by all. In the case of conflicts, ambiguities or inconsistencies in the Contract Documents, Contractor shall request interpretation from IPC, and IPC shall promptly provide clarification to Contractor, which interpretation shall be binding on Contractor and IPC.

GC-7.2 Contractor agrees that all claims of Contractor, including without limitation, questions concerning interpretation, clarification of this Agreement, the acceptable fulfillment of this Agreement on the part of Contractor shall be submitted in writing to IPC for determination within seven Days of discovery. Contractor agrees that Contractor's failure to ask for a determination within the time allotted shall constitute a waiver by Contractor of all of its rights to future claims, judicial or otherwise.

GC-7.3 IPC will issue all determinations, instructions, and clarifications within 14 Days and shall be final, unless the Contractor files with IPC, within 14 Days after IPC notifies Contractor of any such determination, instruction or clarification, a written protest stating clearly and in detail the basis thereof. IPC will issue a decision in writing upon each such protest within 14 Days of receipt of protest,

and its decision will be final. At all times, Contractor shall proceed with the Work in accordance with the determinations, instruction, and clarifications of IPC. Contractor shall be solely responsible for requesting instruction or interpretations and shall be solely liable for any cost and expense arising from its failure to do so. Contractor agrees that Contractor's failure to protest IPC's determinations, instructions, clarifications, or decisions within 14 Days after receipt thereof shall constitute a waiver by Contractor of all of its rights to further protest or make a claim, judicial or otherwise.

GC-7.4 Changes to the Contract Documents may only be made by a Change Order or amendment to the Contract Documents executed by both Parties.

## **GC-8 TIME AND ORDER OF COMPLETION**

GC-8.1 Time limits stated in the Agreement and Contract Documents are of the essence of the Agreement. Contractor agrees and acknowledges that it shall achieve Substantial Completion on or before the Guaranteed Substantial Completion Date, and that all Work shall be completed by the Final Completion Date. If requested by IPC, on or prior to the date specified in the Special Conditions (Exhibit C to the Agreement), Contractor shall submit to IPC a progress construction schedule in the form of a critical path method diagram which specifies the dates on which Contractor plans to begin and complete various parts of the Work and shall contain dates in all respects consistent with the Milestone Date(s), Guaranteed Substantial Completion Date, and Final Completion Date. The schedule shall identify all Work activities and events that are critical to ensuring Substantial Completion and Final Completion of the Project and the Work by and in conformance with the dates set forth in the Agreement and Contract Documents, including coordination between submittal and Shop Drawing approvals and related Work activities, and coordination with other contractors performing work for IPC. The schedule shall identify in reasonable detail all phases of construction, all Work activities (including without limitation procurement, submittal, and Shop Drawing activities), and all events that will occur during performance of the Work, and shall graphically represent the logical sequence of such phases of construction, Work activities, and events that will occur on the Project. The schedule shall include work activities to be performed by IPC and those working for, through, or on behalf of IPC. The schedule shall also be in a form (including machine-readable electronic format if requested by IPC) and with contents acceptable to IPC, and upon review and acceptance by IPC, the schedule shall become Exhibit E to the Agreement. In the event Contractor submits a schedule in a form unacceptable to IPC, Contractor shall promptly revise the same in accordance with the requirements and recommendations of IPC and shall resubmit the revised schedule for acceptance. When IPC has approved a schedule, the schedule shall be acknowledged through any of (a) the initials of both Contractor and IPC on each page of the accepted schedule, (b) physical marking by IPC of the schedule with the word "Approved" or words or phrases of similar import, (c) execution via signatures on the schedule by IPC and Contractor, or (d) written acknowledgment (by electronic means or otherwise) of IPC that makes it clear from the context that the schedule is approved. The accepted schedule so marked or acknowledged, along with all dates set forth in the Agreement and Contract Documents, shall be referred to as the "Approved Schedule". Contractor shall provide an electronic version of the Approved Schedule when requested by IPC.

Contractor shall monitor the progress of the Work for conformance with the Approved Schedule and shall, on a monthly basis, submit to IPC written updates reporting the actual status of the Work as compared to the Approved Schedule. Contractor's written updates shall reflect the reasons (to the best of Contractor's knowledge) for deviation, if any, from the Approved Schedule; impacts upon the schedule caused by Change Orders; and shall reflect the progress of the Work achieved by the Contractor during the previous update period. Contractor is responsible for coordinating its own schedules, including, without limitation, the schedules of Subcontractors, as well as construction-related activities of others. Contractor acknowledges and agrees that other contractors and IPC may be performing work related to the Project and that Contractor will need to coordinate its Work around the work of those contractors and IPC.

GC-8.2 Changes to the Approved Schedule may only be made by a Change Order or amendment to the Contract Documents executed by both Parties.

GC-8.3 At all times during the performance of the Work, Contractor shall monitor the progress of the Work to ensure progress is achieved in accordance with the Approved Schedule. In Project updates required under Section GC-8.1, Contractor shall promptly advise IPC of any delays or potential delays that may negatively impact the progress of the Work or that may jeopardize Substantial Completion or Final Completion of the Project and the Work by and in accordance with the dates and times set forth in the Approved Schedule. In the event Contractor advises IPC of such delays or potential delays, Contractor shall provide IPC a written plan to recover such delays that shall set forth any changes in schedule logic, the performance of overtime work, the performance of shiftwork, and the use of additional labor required to recover the identified delay.

Contractor acknowledges that the Approved Schedule contains Float. Contractor agrees that all Float on the Approved Schedule may be consumed by Contractor or IPC as necessary. In the event the Contractor or IPC have competing need for the use of Float, then the Float at issue shall be allocated equally between the parties. Use of Float by either party shall be without liability to the other for adjustments in the Contract Time or Contract Price, or for any additional payment of any sort by reason of the loss or use of any Float.

GC-8.4 IPC, for any reason, may require the Contractor at any time to perform any portion of the Work on an overtime or shiftwork basis. If IPC requires overtime or shiftwork, the premium portion of the labor cost to perform such overtime or shiftwork shall be considered Additional Work, provided IPC has required such to accelerate the Approved Schedule and promote IPC's interest. Overtime work or shiftwork required to enable Contractor to meet the Approved Schedule as required in Section GC-8.1, or to correct Defective Work, or to otherwise serve Contractor's interest, is not Additional Work. The Contract Price, the Approved Schedule, or both will be appropriately adjusted pursuant to Section GC-17.3 for all overtime or shiftwork constituting Additional Work. Such adjustments in Contract Price shall be limited to the Contractor's direct costs for the performance of overtime or shiftwork, and shall not include overhead and profit. In no event will the Contractor be entitled to recovery of indirect costs or impact costs associated with the performance of such overtime or shiftwork, including without limitation, costs related to inefficiencies that arise out of performance of Work under overtime or shiftwork conditions, the stacking of trades, or other like indirect or impact costs.

GC-8.5 If IPC determines that Contractor's performance of the Work is not in accordance with the Approved Schedule, or that Contractor has failed to reach the level of completion required by the Approved Schedule, IPC shall have the right to direct the Contractor to accelerate the progress of construction. Without waiving any other right or remedy it may have under the Contract Documents, IPC may direct the Contractor to accelerate the progress of construction by (1) working additional shifts; (2) working overtime; or (3) supplying additional manpower, materials, and equipment necessary to meet the Approved Schedule. Upon receipt of such a request from IPC, Contractor shall immediately implement the corrective measures directed by IPC until the progress of the Work meets the requirements of the Approved Schedule. IPC's request that Contractor accelerate the progress of performance of the Work under this Section GC-8.5 shall not constitute Additional Work and is for the sole purpose of ensuring the Contractor's maintenance of the Approved Schedule.

GC-8.6 Contractor shall coordinate Work with IPC and those working for, through, or on behalf of IPC. IPC may require Contractor to make reasonable changes in the sequence of Work at any time during the performance of the Work in order to facilitate the performance of work by IPC or those working for, through, or on behalf of IPC. To the extent such changes materially affect (whether by increasing or decreasing) Contractor's time and costs, were not reasonably anticipated, and the procedures of Section GC-15 below have been complied with, the Approved Schedule and Contract Price may be equitably adjusted as provided in Section GC-15.

## **GC-9 SCHEDULE OF VALUES OR PROGRESS PAYMENT SCHEDULE**

GC-9.1 If required in the Special Conditions (Exhibit C to the Agreement), Contractor shall submit to IPC: (a) a schedule of values apportioning the value, as a percent of the total Contract Price, of each phase or division of Work ("Schedule of Values"); or, (b) a schedule of payment milestones and applicable

progress payments to be made upon IPC's determination that Contractor has achieved such payment milestones (a "Progress Payment Schedule"). The Schedule of Values or Progress Payment Schedule, as applicable, shall be in a form acceptable to IPC and shall become part of the Contract Documents as Exhibit F to the Agreement.

The Schedule of Values will include an approximate dollar value (or percentage of the Contract Price) associated with each Work component or the Progress Payment Schedule will include a dollar amount (or percentage of the Contract Price) associated with each applicable payment milestone. The cost of Contractor's overhead, fee, and construction indirects shall be included in the Schedule of Values or Progress Payment Schedule, as applicable. The summation of the dollar amount allocated to each Schedule of Values or Progress Payment Schedule component shall be equal to the Contract Price.

Contractor agrees that the cost specified for each component of Work in the Schedule of Values or Progress Payment Schedule is a representative estimate of the anticipated cost of completion; however, IPC and Contractor acknowledge that the actual cost of completion of a particular component of Work may ultimately differ from that specified in the Schedule of Values or Progress Payment Schedule. Neither the Contract Price nor the dollar values for components of Work listed on the Schedule of Values or Progress Payment Schedule shall change based upon actual costs for applicable components.

The Schedule of Values or Progress Payment Schedule, as applicable, shall be amended by the Contractor during the course of the Work, not less often than monthly, for approval by IPC, to account for any Change Orders issued during such monthly period. The Schedule of Values or Progress Payment Schedule, as applicable, will be incorporated into the Contract Documents only following approval by IPC in writing. Approval of the amended Schedule of Values or Progress Payment Schedule, shall be represented by any of (a) the initials of both Contractor and IPC on each page of the Schedule of Values or Progress Payment Schedule, (b) physical marking by IPC of the Schedule of Values or Progress Payment Schedule, with the word "Approved" or words or phrases of similar import, (c) execution via prominent signatures on the Schedule of Values or Progress Payment Schedule, by IPC and Contractor, or (d) written acknowledgment (by electronic means or otherwise) of IPC that makes it clear from the context that the Schedule of Values or Progress Payment Schedule is approved.

## **GC-10 UNIT PRICE WORK AND ESTIMATED QUANTITIES**

GC-10.1 Contractor acknowledges and agrees that the IPC is not a guarantor of the estimated quantities of any unit price items stated in the Contract Documents or subsequently agreed upon, and that IPC shall not be required to purchase any minimum amount of Unit Price Work. If the Agreement specifically provides that all or a part of the Work is to be Unit Price Work (by inclusion of a Schedule of Unit Prices in the Agreement or by other written document included in the Contract Documents stating that all or a portion of the Work will be considered Unit Price Work), Contractor agrees that it shall not be entitled to additional compensation for anticipated profits, for loss of profits or for any damages in the event (i) there is a difference between the quantities of the various kinds of Work actually performed or materials actually delivered and the estimated quantities of labor, materials or equipment set forth in the Contract Documents; or (ii) no Work is ordered under certain unit items. Unit prices are inclusive of all costs for the Unit Price Work, including but not limited to costs of labor, services, materials, equipment, tools, supervision, insurance, bonds, applicable taxes, and overhead and profit for that Work. No other mark-up whatsoever will be allowed on items or units within the Schedule of Unit Prices.

## **GC-11 SUBMITTALS**

GC-11.1 Contractor shall submit Drawings, Samples, product data, and other documents as required by IPC to IPC for review and approval. IPC, at its sole discretion, may require Contractor to develop a Schedule of Submittals. If IPC requires a Schedule of Submittals, Contractor shall submit Shop Drawings and Samples in accordance with that Schedule of Submittals.

- a. Shop Drawings.
  - i) Contractor shall submit a minimum of four copies of Shop Drawings to IPC.
  - ii) Data shown on Contractor's Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show IPC the services, materials, and equipment Contractor proposes to provide and to enable IPC to review the information for the limited purposes required by Section GC-11.4.
- b. Samples.
  - i) Contractor shall submit two Samples, unless Contractor requests a returned Sample. Contractor shall clearly identify each Sample as to material, supplier, pertinent data such as catalog numbers, the use for which intended and other data as IPC may require to enable IPC to review the submittal for limited purposes as required by Section GC-11.4.

GC-11.2 If a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to IPC review and approval of the pertinent submittal will be at the sole expense, risk or removal, and responsibility of Contractor.

#### GC-11.3 Submittal Procedures:

- a. Before submitting each Shop Drawing or Sample submittal, Contractor shall have reviewed and coordinated each Shop Drawing or Sample with (i) other Shop Drawings and Samples related to the Work, (ii) the requirements of the Work, (iii) the Contract Documents, and (iv) the site conditions. Contractor shall also have determined and verified:
  - i) All field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
  - ii) The suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
  - iii) All information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
- b. Contractor's submittals shall each bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
- c. With each submittal, Contractor shall give IPC specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. Contractor's written notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to IPC for review and approval of each variation.

#### GC-11.4 IPC's Review

- (i) IPC will provide timely review (within 30 Days) of Shop Drawings and Samples. IPC's review and approval is solely to visually determine if the items encompassed within the submittals will, upon proper installation or incorporation in the Work by Contractor, be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. If IPC does not respond to the submission of a submittal within the 30 Days, then Contractor shall provide IPC with written notice of IPC's failure to respond in a timely manner, (ii) inform IPC whether the delay has an impact to any specific activities in the Approved Schedule, and (iii) provide IPC a detailed explanation of the impact to the schedule.
- b. IPC's review and approval will not extend to means, methods, technique, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of

construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. IPC's review and approval shall not constitute acceptance of any Work, and shall not limit IPC's rights and remedies under this Agreement or law in any way.

- c. IPC's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless (i) Contractor has complied with the requirement of Section GC-11.3.c, and (ii) IPC has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. IPC's review and approval shall not relieve Contractor from responsibility from complying with the requirements of Section GC-11.3 or any other requirements of the Contract Documents.

GC-11.5 Resubmittal Procedures. Contractor shall make corrections required by IPC and shall return the required number of corrected copies of Shop Drawings. Contractor shall submit new Samples for review and approval if required by IPC. Contractor shall direct specific attention in writing to revisions other than the correction called for by IPC on previous submittals. IPC may, at its sole discretion, require Contractor to reimburse IPC reasonable rates for IPC's review of Contractor's resubmittals.

## **GC-12 PRODUCT SUBSTITUTION**

GC-12.1 Contractor shall submit to IPC for IPC's review and approval, data on all materials and equipment that differ in any respect from materials and equipment specified in the Specifications, Drawings, and the Contract Documents. Materials proposed by Contractor and Subcontractors for use in Work not specifically mentioned in the Specifications shall be included and highlighted.

GC-12.2 Contractor acknowledges and agrees that if the name, brand, or model of a manufacturer's article, product, item of equipment, or system is specified, it shall be used as a measure of quality and utility or as a standard. No intent to limit competition shall be inferred or implied. If more than one manufacturer's name is specified, the first named manufacturer is the basis of design. Second, third, and subsequent named manufacturers shall be considered substitutions.

GC-12.3 If Contractor desires to use another brand or manufacture of quality, appearance, and utility equal to the product specified, Contractor shall request substitution as provided herein. IPC will either accept or reject the substitution, and IPC's decision shall be final. Unless substitutions are requested and approved as provided herein, deviations from the Drawings, Specifications, and Contract Documents will not be permitted.

GC-12.4 Requests for substitution will be considered by IPC only if Contractor complies with the following procedures:

- a. Submits complete technical data, including drawings; complete performance specifications; test data and tests as may be required by IPC; and samples of the article proposed for substitution as applicable.
- b. Submits comparative data on the material, equipment, or system to be replaced by the proposed substitution.
- c. Includes in the transmittal letter a signed statement that the proposed substitution is in full compliance with the Contract Documents.
- d. Submits requests for substitutions to IPC in duplicate.
- e. Submits requests for substitutions that contain not less than the following information in the headline or subject of the transmittal letter:

- i) Project Title.
- ii) Subject (Unit or Division of Work).
- iii) Drawing and Specification references; Drawing number and detail; Specification section, Article, Paragraph, and Subparagraph.

GC-12.5 IPC will consider the service of the proposed substitution in its evaluation of the substitution. IPC may require data on not less than three readily accessible, comparable installations of the item proposed for substitution completed in the five years prior to the Contractor's request for the substitution. IPC may also require Contractor to furnish to IPC a written warranty with adequate safeguards, assuring satisfactory performance of a proposed substitute item or system for a stated minimum period of time.

GC-12.6 IPC may reject a proposed substitution for any reason, including without limitation, if a proposed substitution requires changes in related Work, which in the opinion of IPC, constitutes a deviation from Contract Documents or aspects of design.

GC-12.7 Contractor shall be responsible for changes in other parts of the Work caused by a substitution at no additional cost to IPC.

GC-12.8 Contractor shall not proceed with a substitution until IPC has accepted the substitution in writing. Such acceptance shall not relieve the Contractor from complying with the requirements of the Drawings, Specifications, and Contract Documents.

GC-12.9 Substitutions submitted to IPC that do not comply with the above requirements will be returned to Contractor without review. Contractor shall furnish originally specified items unless a request for substitution is submitted and accepted by IPC in writing in accordance with above requirements.

### **GC-13 INSPECTION, COVERED WORK, DEFECTIVE WORK, AND RIGHT OF ACCESS**

GC-13.1 Contractor agrees that IPC may, at its sole discretion, perform inspections of all Work, including without limitation, any material and equipment furnished by Contractor. Contractor shall furnish to IPC and its agents, access at all times to the Work and to the premises used by Contractor, and shall cooperate with and make reasonable accommodations for inspections, including without limitation temporarily discontinuing portions of the Work or uncovering or disassembling portions of the Work. Contractor agrees that IPC shall not have any duty to make such inspections, and that any inspection by IPC shall not limit IPC's rights and remedies in any way. Contractor agrees that visits or inspections by IPC shall not be construed to create an obligation on the part of IPC to make on-site inspections or observations to check the quantity or quality of the Work. IPC shall neither have control over nor have charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are Contractor's responsibilities under the Contract Documents. IPC's inspection of the Work shall not relieve Contractor of any obligation or responsibility under the Contract Documents, including without limitation, its responsibility to construct the Work in compliance with the Contract Documents.

GC-13.2 If, prior to Final Completion of the Work and without limitation to any other remedies available to IPC, the Work or any portion thereof is found to be defective, out of compliance with Contract Documents, or shall be damaged in whole or in part by Contractor or those working through, for, or on behalf of Contractor, Contractor agrees to promptly repair or replace such defective Work or damage in a manner satisfactory to IPC and without adjustment to Contract Time or Contract Price. In no case shall defective, non-conforming, or imperfect Work be deemed to be accepted by IPC.

GC-13.3 At the request of IPC, Work that has been covered prior to inspection shall be uncovered by Contractor for the purpose of inspection. If the Work uncovered under this Section was required to have been inspected prior to covering or is determined to be defective or out of compliance with

Contract Documents, then (i) Contractor shall bear the costs of uncovering, remediation or replacement of the Work, and recovering the Work; (ii) and Contractor's Contract Time or Contract Price shall not be adjusted.

GC-13.4 If the Work uncovered (i) was not required to be inspected prior to covering by Contractor, and (ii) is in conformance with Contract Documents, and without defect, then such costs shall be the responsibility of IPC. IPC shall pay costs at the agreed unit prices for such class of Work. In the event the work of uncovering materials and the repair or replacement thereof is not covered by agreed unit prices, IPC shall pay for such work on the basis of actual direct cost of labor, materials, equipment use and incidental expense, as stated in Section GC-17.3.c., except that no percentage mark-up for Contractor's overhead and profit shall be added to actual direct cost of labor, materials, equipment use and incidental expense.

GC-13.5 If Contractor shall fail to repair or replace any defective or non-compliant Work or materials after reasonable notice, IPC, at its option, may cause such Work or materials to be repaired or replaced, and the expense thereof shall be charged to Contractor and may be deducted from any amount payable by IPC to Contractor.

GC-13.6 If during performance of the Work, Contractor or any of its Subcontractors cause damage to IPC infrastructure or facilities, or to third party-owned property for which IPC is ultimately responsible for repairing or replacing, IPC may, within its sole discretion, cause such damage to be repaired or replaced and either: (i) charge Contractor for all expenses incurred by IPC for such repair or replacement; or, (ii) deduct all expenses incurred by IPC for such repair or replacement from any amount payable by IPC to Contractor.

#### **GC-14 IPC SUSPENSION OF WORK**

GC-14.1 IPC may, without cause, by written order to the Contractor, suspend, delay, or interrupt the Work, in whole or in part, for such period as IPC may determine.

GC-14.2 Adjustments to the Contract Time for any IPC suspension, delay, or interruption of the Work effected pursuant to this section shall be made in accordance with the terms of Section GC-15 hereof.

GC-14.3 No adjustment to Contract Time shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay, or interruption of the Work, or if another provision of these General Conditions or the Special Conditions (Exhibit C to the Agreement) (if applicable) is applied to render an equitable adjustment. Not in limitation of the generality of the foregoing, the failure of Contractor to timely deliver documents required by these General Conditions, including, but not limited to, the Approved Schedule and the Schedule of Values or Progress Payment Schedule, as applicable, shall (not in limitation of other rights and remedies of IPC) form the basis of IPC's right to suspend performance of the Agreement and Work under the Contract Documents until Contractor has satisfied such obligations, and shall not form the basis for an extension of time for Contractor's obligations under the Contract Documents, it being understood that Contractor shall at all times diligently perform all of its obligations under the Contract Documents.

#### **GC-15 DELAY AND DELAY CLAIMS**

GC-15.1 Basis of Claim. Contractor may make a delay claim pursuant to Sections GC-15.2 through GC-15.4 ("Delay Claims") if all of the following occurs:

- a. If Contractor's critical path is delayed at any time in the progress of the Work due to Additional Work, a Force Majeure Event, or the discovery of undisclosed or concealed Hazardous Materials, all of which were not reasonably anticipated in the area or time in which the affected portion of the Work is to be or is being performed; and
- b. If Contractor and any Subcontractor or vendor to either (or any person or entity for whose acts or omissions any of them are responsible) is without fault in causing such delay; and

- c. If such delay could not have been prevented by reasonable precautions by Contractor or Subcontractor, and
- d. If the delay cannot reasonably be circumvented by Contractor or Subcontractor through the use of alternate sources, work around plans or other means; and
- e. If such delay will prevent the Contractor from achieving the Guaranteed Substantial Completion Date
- f. Notwithstanding the provisions in this Section GC-15.1, no extensions of the Contract Time shall be allowed for delays or suspensions to the extent caused by the acts or omissions of the Contractor or Subcontractors, or anyone for whose acts or omissions any of them are responsible (including their respective vendors), or by the failure of such persons or entities to perform as required by this Agreement.

GC-15.2 Notice of Delay. Upon the occurrence of any Directive, event, or circumstance that causes any delay to the Work or Project that will prevent the Contractor from achieving the Guaranteed Substantial Completion Date and the deadlines set forth in the Approved Schedule, and not later than 72 hours after the occurrence of such Directive, event, or circumstance, Contractor shall provide IPC written notice identifying the Directive, event, or circumstance that will or may give rise to such delay and the Work activities, Work sequences, and construction phases that will or may be delayed. Contractor agrees and acknowledges that the failure of Contractor to provide written notice as required by this Section 15.2 or to acquire the requisite prior written authorization to proceed with changes to the Work that will or may cause delay arising from a Directive, event, or circumstance shall result in waiver of Contractor's claim for time extensions for delays arising out of such Directive, event, or circumstance.

GC-15.3 Delay Claim Procedure. Claims by Contractor for extensions of time as a result of the delay for which Contractor has given IPC notice shall be submitted in writing to IPC not later than 21 Days after the occurrence of the delay causing Directive, event, or circumstance that gives rise to Contractor's claim. Contractor shall be permitted to submit such claims only if it has fully complied with the requirements of Section GC-15.2, and only if the claim is permitted pursuant to Section GC-15.1. Contractor's claim for time extension shall specifically identify the delay causing Directive, event, or circumstance preventing Contractor from achieving the Guaranteed Substantial Completion Date, shall provide a detailed quantification of the time impact of the delay upon the Work, and shall indicate how the delay satisfies Section GC-15.1. Contractor's quantification of time impact of such delay shall include a detailed analysis of the Approved Schedule that (1) identifies the Work activities, Work sequences, and construction phases impacted by the delay; (2) quantifies the time impact upon each activity, sequence, and phase; (3) and provides a list of logic changes, if any. Contractor shall also provide an updated schedule in electronic and paper format. Failure of Contractor to provide such written claim and detailed analysis to IPC within the timeframe established shall result in waiver of Contractor's claim for time extension.

GC-15.4 Time Extension. To the extent that IPC determines that it is not possible to revise the Approved Schedule to accommodate the change without impacting the Guaranteed Substantial Completion Date, and further determines that the facts justify a change in the Guaranteed Substantial Completion Date, IPC will:

- a. For properly submitted, valid, and approved Delay Claims, IPC will issue a Change Order extending the Guaranteed Substantial Completion Date for as much time as IPC deems reasonable for Contractor to complete all or any affected portion of the Work. Contractor shall not be entitled to additional compensation or delay damages arising out of or related to the claim.
- b. If, however, IPC determines that the facts do not justify a change in the Guaranteed Substantial Completion Date claims for the same will be denied.
- c. No Consequential Damages. Contractor acknowledges and agrees that an extension of the Guaranteed Substantial Completion Date shall be Contractor's sole and exclusive remedy for any

delay, hindrance, disruption, loss of productivity or inefficiency, of whatever kind, nature or cause, affecting Contractor's commencement, prosecution, or completion of the Work and Contractor shall not be entitled to compensation in connection with any such delay, hindrance, disruption, loss of productivity or inefficiency including, without limitation, direct damages, indirect damages, consequential damages, impact damages or other similar damages or recoveries, for any reason.

## **GC-16 ADDITIONAL WORK**

GC-16.1 IPC may direct Additional Work without affecting the validity of the Agreement. All Additional Work must be authorized by an applicable Directive, Work Clarification, or Change Order. Contractor, upon receipt of a Directive, Work Clarification, or Change Order, and subject to the terms of Sections GC-8 and GC-15, shall expeditiously proceed and carry out the Work directed by such written order. For purposes of clarity, any reduction or deletion in Unit Price Work to an amount less than the Unit Price Estimate shall not require a Directive, Work Clarification, or Change Order, unless requested by IPC, it being understood that IPC shall be obligated to pay Contractor only for the actual number of units of Unit Price Work actually performed or delivered.

GC-16.2 IPC shall have the authority to order changes in the Work that have little or no affect upon either the cost of the Work or the time required to complete the Work, and such changes in the Work shall be directed by IPC through a Work Clarification and shall bind IPC and Contractor. Contractor agrees and acknowledges that no additional compensation shall be paid, no schedule adjustment shall be permitted, and no reduction in Contract Price shall result from changes ordered by IPC under this Section 16.2.

GC-16.3 Upon receipt of such Directive, Work Clarification, or Change Order, and subject to the terms of Sections GC-8 and Section GC-15, Contractor shall promptly proceed with the change in the Work described therein and shall notify IPC of its agreement or disagreement with the Contract Price, Approved Schedule, or Guaranteed Substantial Completion Date adjustment or method of adjustment, if any, described in such written order. If Contractor objects to IPC's proposal or denial of compensation or Approved Schedule or Guaranteed Substantial Completion Date adjustments, then Contractor may submit a written claim in accordance with Sections GC-17.1 and GC-17.2 below, but shall proceed with the Work.

GC-16.4 Any Change Order developed pursuant to Section GC-16 shall be in substantially the form attached as an annex to the Agreement, or such other form as is acceptable to IPC.

## **GC-17 CLAIMS FOR ADDITIONAL WORK**

GC-17.1 Upon the occurrence of any Directive or Work Clarification by IPC, or event or circumstance that causes or requires the Contractor to perform what it believes to be Additional Work, and not later than 72 hours after the occurrence of such Directive, event or circumstance, Contractor shall provide IPC written notice identifying the event or circumstance that gives rise to such Additional Work and the impact such work will have on the Approved Schedule. Contractor acknowledges and agrees that failure of Contractor to provide written notice as required by this Section, or to acquire the requisite written authorization to proceed with Additional Work arising from a Directive or Work Clarification, shall result in waiver of Contractor's claims for increase in the Contract Price or extensions of time for performance of the Work.

GC-17.2 Contractor acknowledges and agrees that claims by the Contractor for Additional Work, seeking recovery of the cost or expense of such work, shall be submitted to IPC in writing not later than 21 Days after occurrence of the Directive, Work Clarification, event, or circumstance that gives rise to Contractor's claim. Contractor shall be permitted to submit such claims only if it has fully complied with the requirements of Section GC-17.1. Contractor's claim for such work shall specifically identify the Directive, Work Clarification, event, or circumstance causing the performance of such work and shall specifically identify the Additional Work performed by the Contractor. Contractor's claim shall also contain a comprehensive quantity survey and cost accounting of the work Contractor claims as

Additional Work. Contractor agrees that failure of Contractor to provide such written claim to IPC within the time frame established shall result in waiver of Contractor's claim for such Additional Work.

GC-17.3 Adjustments to the Contract Price shall be as follows:

- a. By applying unit prices (if any) applicable to the Additional Work and agreed to by IPC, such unit prices being set forth in an Exhibit attached to the Agreement and incorporated therein; or
- b. By fixed lump sum adjustment to the Contract Price agreed to by IPC and Contractor; or
- c. If neither (a) or (b) above applies, then the Contract Price shall be adjusted in the amount of actual direct cost of added labor, Contractor-furnished materials, subcontracts and equipment less estimated savings for deleted labor, Contractor-furnished materials, subcontracts, and equipment, plus 10% of the net direct cost amount for Contractor's overhead, profit, and indirect costs. Contractor acknowledges and agrees that the overhead-profit percentage fee shall cover all Contractor's profit and job site overhead for superintendents, transportation and use of small tools and equipment not susceptible to classification under transportation equipment or heavy equipment, general office overhead, insurance, bond, if any, and all other indirect and incidental expense.

Notwithstanding the foregoing, Contractor acknowledges and agrees that any adjustment to the Contract Price pursuant to subsections (a), (b), or (c) of this Section GC-17.3 includes all applicable taxes and costs, including but not limited to, overhead, profit, and markup.

If the Additional Work includes a reduction or deletion in Work, then the reduction or deletion will be credited to IPC on the basis of reduced Contract Time and accelerated Guaranteed Substantial Completion Date, or reduction in Contract Price, or both. The amount of credit to be allowed IPC on the Contract Price under this Section will be the amount of the actual net decrease in cost plus a deduction in Contractor's overhead-profit by an amount equal to 10% of such net decrease. Except as otherwise agreed to by IPC, in the event a reduction or deletion in Work is to Unit Price Work, the reduction to the Contract Price shall be equal to the number of units so reduced or deleted multiplied by the dollar amount set forth for each unit of such Work in the Schedule of Unit Prices.

GC-17.4 Calculations for purposes of Section GC-17.3.c. shall be based on the following:

- a. Labor. IPC shall pay straight-time labor (straight-time payroll) direct costs and overtime labor (premium payroll) direct costs, for those hours directly involved in completing the Additional Work.
  - i) Straight-time payroll is defined as the wage rate paid for hours worked during the normal 40 hour work week.
  - ii) Premium payroll is defined as a wage rate higher than straight-time, payable for overtime work. The premium payroll shall not exceed 1.5 times straight-time and will be reimbursed only if (i) given written approval in advance by IPC, and (ii) overtime is not incurred as result of Contractor's actions, omissions, delays, defaults, or inefficiencies. The premium pay in excess of the straight-time rate is not subject to the overhead-profit percentage fee.
- b. Subsistence: IPC shall pay subsistence only if Contractor shows that, as a result of the Additional Work, the workers' number of days on the job were extended and that those workers were actually being paid subsistence by Contractor prior to and during the time period in question. Subsistence is not to be included in the hourly payroll rate. Subsistence will be compensated at the direct cost paid to the employee and is not subject to any markup, overhead, or profit percentage fee.
- c. Contractor-furnished Materials. Contractor-furnished materials verified by IPC as necessary for the Additional Work will be compensated at actual invoice cost plus the overhead-profit percentage fee set forth in Section GC-17.3.c.

- d. Subcontracts. Subcontracts at any tier must be approved in advance by IPC for any portions of Additional Work. IPC has the right, but not the duty, to inspect the contract entered into between and amongst Contractor and Subcontractor. Subcontract costs will be compensated at actual invoice cost plus the overhead-profit percentage fee set forth in Section GC-17.3.c.
- e. Equipment.
  - i) For Additional Work involving the use of trucks, tractors, derricks, cranes, and excavators, Contractor shall be paid for (i) actual use at agreed rental prices not to exceed rental prices of comparable equipment available to IPC from commercial rental sources, or (ii) at rental rates not to exceed 60 percent of the monthly rental rates established in the latest edition of the Rental Rate Blue Book for Construction Equipment, whichever is lower. Hourly rates calculated using the Rental Rate Blue Book shall be 60 percent times the Blue Book monthly rate divided by 176. Said rental prices shall include, unless otherwise specifically agreed to, the furnishing of all necessary power or fuel, lubricating oils and greases, rigging, maintenance and repairs, but unless otherwise specifically agreed to, shall not include labor for operating purposes. Contractor's expense of furnishing all gas, oil, lubrication, maintenance and repair (excluding operating personnel) shall not exceed the operating rates established in the Rental Rate Blue Book. For heavy equipment (not self-propelled or readily movable), equipment hauling costs to and from Contractor's nearest equipment yard or nearest project site to the Project will be paid for at the actual rate paid by Contractor provided that rate does not exceed the average rate charged for similar transportation by local heavy equipment transporters. Said rental prices shall determine the complete payment for equipment furnished, including profit, superintendents, general overhead and other indirect expense.
  - ii) For Additional Work requiring Rental Equipment, Contractor shall furnish to IPC a detailed list of equipment by type, size, and proposed rental rate. Hourly, weekly, and monthly rental rates shall be given for each type of equipment listed. Contractors shall use a rental rate of monthly, weekly, or hourly, whichever equals to a lesser charge for IPC.
  - iii) Hourly rates shall be paid only on such time as equipment is in "actual use". Time of "actual use" is defined as the time equipment is on the Work site actually in use.
  - iv) Standby will be paid to Contractor during any period of Additional Work to compensate Contractor for keeping, to the extent required in the notice, its equipment committed to the Additional Work in a standby status. The standby charge for equipment shall not exceed 25% of the agreed upon rental rate and will only be made to equipment that is in operable condition.

## **GC-18 DISPUTE RESOLUTION**

GC-18.1 Except as may be expressly provided elsewhere in the Contract Documents to the contrary, the Parties shall make reasonable efforts to negotiate resolution of any dispute arising out of or in connection with this Agreement or the Contract Documents prior to either Party taking legal action. Negotiations and meetings conducted pursuant to this Section shall be confidential and shall be treated as compromise and settlement discussions not admissible in any legal proceeding involving this Agreement, in accordance with state and Federal Rules of Evidence.

## **GC-19 RETAINAGE AND PROGRESS PAYMENTS**

GC-19.1 Retainage. From each payment to Contractor, IPC may withhold 5% of the amount otherwise due after deduction of any amounts as set forth in Section GC-19.2 below; provided however, that IPC may increase retention to 20% if Contractor fails to provide a performance bond issued by a surety acceptable to IPC when requested to do so by IPC. IPC may, at its option and in its sole discretion, reduce the amount to be retained at any time, collect or not collect retainage, or change its retainage practice at any time during the Agreement without waiving any of its rights under the Agreement.

GC-19.2 Application for Progress Payment. Monthly during performance of the Work, or on such other schedule as shall be set forth in Progress Payment Schedule, Contractor may make application for payment that shall include an itemized and detailed invoice and be in conformance with the Schedule of Values, Progress Payment Schedule, or Schedule of Unit Prices, as applicable. An Application for Progress Payment that includes a request for payment for Additional Work shall include reference to the Change Order authorizing the Additional Work and any other substantiating data available to Contractor and requested by IPC. No payments will be made under the Contract Documents except as certified by the IPAR. The IPAR will make a determination based on measurement or approximation of whether the Application for Progress Payment is consistent with the Schedule of Values, Progress Payment Schedule, Approved Schedule, or Schedule of Unit Prices (each as applicable), and whether the Application for Progress Payment accords with the IPAR's determination of the amount of Work performed and materials incorporated into the Work. The IPAR will review Contractor's timeliness and quality of Work through the date of the Application for Progress Payment; Contractor's payment status with its employees and Subcontractors; and overall compliance with the Contract Documents in the performance of the Work. Based on the IPAR's review, the IPAR may either reject the Application for Progress Payment or authorize payment in whole or in part. The IPAR will only certify payment for those amounts that the IPAR has no dispute or objection, less retainage, any offsets, prior payments, and other amounts chargeable to Contractor in accordance with the Contract Documents. IPC shall only be obligated to pay for materials after the materials have been delivered onsite and installed in accordance with this Agreement.

GC-19.3 The amount authorized for payment by the IPAR, if any, will be paid by IPC to Contractor within 30 Days of the IPAR's approval of payment. The IPAR shall advise Contractor at the time of disapproving or nullifying an application for payment of the specific reasons for its disapproval or nullification. If the reasons for the IPAR's objections or disputes are cured, Contractor may renew its Application for Progress Payment on those items and submit a revised invoice and application. Progress payments will only be made upon the IPAR's approved invoices. A progress payment by IPC, or partial or entire use or occupancy of the Project by IPC, shall not constitute acceptance of Work that is defective or not in accordance with the Contract Documents.

GC-19.4 As a condition precedent to IPC's obligation to make payment to Contractor for any amount sought under a Application for Progress Payment, submitted pursuant to the Contract Documents, Contractor shall provide to IPC upon IPC's request and in a form acceptable to IPC (i) executed waivers of lien and claim in the amount of Contractor's invoice or Application for Progress Payment, in the form or substantially the form attached as an annex to the Agreement; (ii) executed waivers of lien and claim from each Subcontractor for which Contractor seeks payment, in the amount sought by Contractor in its invoice or Application for Progress Payment; and (iii) a duly executed and acknowledged sworn statement from Contractor showing all Subcontractors that have provided Work, the amount of each subcontract Contractor has executed with the Subcontractor, the amount requested for payment to each such Subcontractor, and the amounts to be paid to and retained by the Contractor from such progress payment, together with similar sworn statements from all such Subcontractors. The waiver and release forms submitted by the Contractor shall be conditional as to the payment sought by the current Application for Progress Payment and shall be unconditional as to the payment received pursuant to the prior payment Application for Progress Payment.

GC-19.5 Contractor shall promptly pay each Subcontractor the amount paid to the Contractor by IPC on account of each Subcontractor's performance of the Work. The Contractor's subcontract agreements and purchase order agreements shall require each Subcontractor to make payment in a similar manner to the entities with which it has contracted for performance of the Work. IPC reserves the right to communicate directly with Subcontractors regarding payment, and to pay such entities directly or by means of multiple-payee checks as IPC deems necessary to protect its interests. Should the Contractor withhold payment from any Subcontractors, Contractor shall notify IPC in writing. IPC may withhold such funds from Contractor until the dispute is resolved; provided that such withholding does not conflict with applicable law. Nothing in this Section GC-19.5 shall be construed

or interpreted to (i) create a contractual relationship of any kind between IPC, on the one hand, and Subcontractors on the other; or (ii) place any obligation on IPC to pay Subcontractors.

GC-19.6 Contractor shall continue performance of the Work and shall maintain the progress of the Work in accordance with the Approved Schedule throughout the duration of any dispute arising out of the Work or the Agreement, including but not limited to, disputes arising out of Delay Claims made in accordance with Section GC-15 and disputes arising out of claims for Additional Work, made in accordance with Section GC-17. If Contractor continues to perform the Work in accordance with the Contract Documents throughout the duration of such dispute, IPC shall continue to make payments in accordance with the Contract Documents on undisputed items.

GC-19.7 Notwithstanding anything to the contrary in the foregoing sections, IPC reserves the right, at its discretion, to withhold payments which may otherwise be due Contractor if (i) Contractor fails to correct defective, non-conforming, or damaged Work; (ii) Contractor fails to make substantial progress on the Work; (iii) Contractor fails to ensure Subcontractors are promptly paid; (iv) there is reasonable evidence of a potential third party claim against IPC related to the Work; (v) there is reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price; (vi) there is reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; (vii) Contractor is otherwise in breach of any provision of the Contract Documents; or (viii) IPC has any other good faith dispute with Contractor.

GC-19.8 Contractor's obligations under this Section GC-19 shall include but not limited to the obligation to pay all Subcontractors and any other person or entity having construction lien rights regarding the Project due to their performance of the Contractor's obligations under the Agreement. Contractor agrees to keep the Project and Work site free and clear of any and all such lien claims filed by any such person or entity. Within 15 Days after written demand from IPC, the Contractor shall remove any such lien claim from the Project or Project site by payment, settlement or the furnishing and perfection of a lien release bond or deposit pursuant to applicable law; upon the Contractor's failure or refusal to do so, IPC may do so in which event Contractor shall pay IPC's attorneys' fees, costs, disbursements and expenses so incurred. In addition to all other obligations herein, Contractor agrees to indemnify, hold harmless, reimburse, and defend IPC and others with an interest in the Project or Project site, if any, from, for, and against any and all liens referenced in this Section GC-19.8, and actions, suits, proceedings, costs, disbursements and expenses incurred, including but not limited to attorneys' fees, related to such liens.

## **GC-20 SUBSTANTIAL COMPLETION**

GC-20.1 The term "Substantial Completion" means when (a) the materials and equipment for the Project have been installed substantially in accordance with the Contract Documents, are operational, and have been checked and tested as required by IPC; (b) a Punch List of the uncompleted items (not impacting the use, occupation and operation of the Project) and dates for completion of those items shall be established, unless IPC waives in writing completion of Punch List Items; (c) IPC has received a temporary or final certificate of occupancy, if applicable, and all other governmental approvals necessary and required for IPC to occupy or utilize the Work or designated portion for its intended purpose; and (d) IPC can occupy or utilize the Work for its intended use.

GC-20.2 Not less than five Days prior to Substantial Completion, Contractor shall submit to IPC the proposed Punch List for the Work. The Punch List shall include a list of Punch List Items, an estimate of the cost (inclusive of parts, material, labor, supervision, equipment rental costs, and overhead) to complete each Punch List Items and an estimate of the scheduled date of completion for each Punch List Item. Within five Days following receipt of such proposed Punch List, IPC shall notify Contractor in writing that it accepts such Punch List, or IPC shall state its reasons for disagreement with such Punch List in reasonable detail; provided, however, that IPC's acceptance or rejection in whole or in part of such Punch List (including the estimate of costs to complete the Punch List Items) shall not

relieve Contractor of its liability to complete each Punch List Item in accordance with this Agreement. Unless otherwise specified in the Punch List, all Punch List Items must be completed to the reasonable satisfaction of IPC by the Final Completion Date. If Contractor does not complete a Punch List Item within the allotted time, IPC shall have the right to complete such item and set off the cost thereof against any outstanding amounts due Contractor. Notwithstanding any other provision of this Agreement to the contrary, if the completion of any Punch List Item requires the Work or Project to be de-activated or inoperable, IPC shall have the option of completing such Punch List Items itself (at Contractor's expense) or specifying the dates and times when such Punch List Items may be completed by Contractor.

GC-20.3 When Contractor believes there has been Substantial Completion of the Work, Contractor shall:

- i) prepare and submit to the IPAR a Certificate of Substantial Completion in a form acceptable to IPC, or substantially the form attached as an annex to the Agreement, that will list the items (including all remaining Punch List Items) yet to be completed or corrected, and will identify a date for each of those items to be completed or corrected by Contractor; ii) provide to IPC all Record Documents as required pursuant to Exhibit C. If the IPAR does not agree with the items or representations in Contractor's Certificate of Substantial Completion, the IPAR will advise Contractor of the changes it requires and Contractor will revise and resubmit the Certificate of Substantial Completion. After approval by the IPAR and written acceptance of the Certificate of Substantial Completion by IPC, IPC will take possession and control of the Project. For purposes of the Contract Documents, the date that Contractor submits a conforming Certificate of Substantial Completion that is accepted in writing by IPC shall be deemed the date of Substantial Completion of the Work.

GC-20.4 Within 35 Days following acceptance by IPC of the Certificate of Substantial Completion, the retention withheld by IPC shall be reduced to the lesser of (i) one hundred fifty percent (150%) of the estimated value of the Work yet to be completed (including any rework) in accordance with this Agreement, or (ii) five percent (5%) of the Contract Price; provided, however, that IPC shall not be required to reduce retention pursuant to this Section if a dispute exists between IPC and Contractor.

## **GC-21 FINAL COMPLETION**

GC-21.1 Notice of Final Completion. Promptly after Contractor determines that Final Completion of the Work has occurred, Contractor shall issue to the IPAR a Notice of Final Completion in a form acceptable to IPC, or substantially the form attached as an annex to the Agreement, which shall include relevant Record Documents as identified in Exhibit C, performance test reports as required by IPC, a completed Punch List, and the date upon which all of Contractor's Work was completed. After receipt of the Notice of Final Completion, the IPAR shall respond to Contractor in writing and either accept such Notice of Final Completion or identify any deficiencies, which deficiencies shall be promptly corrected by Contractor and the Notice of Final Completion resubmitted to the IPAR. The date the Notice of Final Completion has been accepted in writing by IPC shall be the Date of Final Completion.

GC-21.2 Final Completion of the Work. Final Completion of the Work, and the date on which Final Completion of the Work shall have been deemed to occur, shall be when (a) Substantial Completion has occurred; (b) all Punch List Items, site clean-up, and Restoration has been completed; (c) Record Documents have been accepted by IPC; (d) Contractor's Notice of Final Completion has been affirmatively accepted, in writing, by IPC; (e) Contractor has provided IPC with four copies of Operations and Maintenance manuals; (f) IPC has a final certificate of occupancy and all other governmental approvals necessary for IPC to occupy or utilize the Work or designated portion thereof for its intended purpose; and (g) Contractor shall have returned to IPC all IPC property. Contractor shall achieve Final Completion of the Work by the Final Completion Date.

GC-21.3 IPC Property. Upon Final Completion of the Work, Contractor, its employees, agents and subcontractors at all tiers shall return all IPC property (including, without limitation, security access cards, keys, passwords, tokens, pagers and parking cards) issued to them. Contractor shall be responsible for replacement cost of any unreturned IPC property.

## **GC-22 FINAL PAYMENT**

GC-22.1 Upon Final Completion of the Work, Contractor shall submit the following to IPC:

- a. Final Application for Progress Payment;
- b. Release of any and all liens and claims and consent of surety (if applicable);
- c. All documents, data, and warranties as provided in these General Conditions; and
- d. An affidavit of Contractor, if requested by IPC, that all indebtedness connected with the Work, including but not limited to, payroll, payments to suppliers, and rentals have been fully and finally paid;

Within 30 Days of IPC's acceptance of the Notice of Final Completion and IPC's receipt and acceptance of the information and documents set forth in this Section GC-22.1, IPC shall pay Contractor any undisputed balance due on the Contract Price and any Change Orders and retention withheld by IPC, less 150% of the value of any disputed item(s). Acceptance of final payment by Contractor and Subcontractor shall constitute a complete release of IPC from all claims, including without limitation all liens as allowed by applicable law (whether statutory or otherwise and including mechanic's or suppliers' liens, provision of all such final lien releases shall be a condition precedent to payment of any moneys due); (ii) all potential claims for additional compensation hereunder by Contractor or Subcontractor with respect to any Work performed or furnished in connection with the Agreement; and (iii) all potential claims against IPC for any act or omission of IPC or of any other person or entity relating to or affecting the Agreement and arising prior to the date of such payment. The payment by IPC shall not be deemed a waiver by IPC of any obligation of Contractor under this Agreement and shall not constitute a waiver of any claim or right IPC may have at any time against Contractor including, without limitation, unsettled liens, warranty rights, and indemnification obligations of Contractor.

GC-22.2 Notwithstanding the provisions in Sections GC-19 and GC-22, the aggregate of IPC's payments to Contractor, excluding payments provided for under Change Orders, shall not exceed the Contract Price.

## **GC-23 WARRANTY OF TITLE/ RISK OF LOSS/WARRANTY OF WORKMANSHIP AND QUALITY**

GC-23.1 Warranty of Title; Risk of Loss: Contractor warrants that title to all Work included within Contractor's Application for Progress Payment will pass to IPC no later than the time of payment and that such title shall be free and clear of liens, claims, security interests or encumbrances of the Contractor, Subcontractors, or other entities claiming interest in the Project, lands, or improvements by reason of having provided labor, material or equipment to the Project. Notwithstanding the passage of title as set forth in this Section GC-23.1, Contractor shall, except as otherwise provided in this Agreement, bear the risk of loss with respect to, and shall have care, custody and control of, all materials, equipment, spare parts, supplies and maintenance equipment (including temporary materials, equipment, and supplies) located within the Project site, off-site, and any other completed Work until such time as the transfer of care, custody, and control to IPC is effected upon Substantial Completion of the Work.

GC-23.2 Contractor represents, warrants, and covenants to IPC that all materials and equipment incorporated into the Work covered by the Agreement shall be new, of the quality specified and, where not specified, of a grade suitable for their intended use and in conformance with the Specifications, Drawings, Samples and other descriptions set forth in the Agreement. Contractor shall, and Contractor shall cause its Subcontractors, to perform all obligations and Work under this Agreement in a prompt and diligent manner, and with superior workmanship. Contractor's Work shall be in strict compliance with the Contract Documents and other requirements referenced in this Agreement. Any Work not conforming to these requirements, including but not limited to substitutions not properly approved and authorized, shall be considered defective. Contractor warrants all equipment, materials, and labor

furnished or Work performed by Contractor and Subcontractor under the Agreement against defects in materials, workmanship, and non-conformities for a period commencing on the Effective Date and terminating on either (i) two years following Final Completion of the Work, or (ii) the warranty period otherwise provided by Contractor and Subcontractor, whichever is longer (“Warranty Period”). Contractor’s warranty shall not limit the time period within which IPC may exercise its warranty rights for the reporting of defects and deficiencies which are identified after the expiration of the Warranty Period but are deemed to have occurred prior to, or during the Warranty Period. Contractor’s equipment and materials warranty shall not limit any other right or remedy available to IPC for breaches of this Agreement.

GC-23.3 Contractor shall perform such tests as IPC may require to verify that such repairs and replacements comply with the requirements of the Agreement. Contractor shall pay for all costs incidental to such repair, replacement and testing, including, without limitation, the value of any IPC-furnished materials spoiled or damaged by the Contractor’s failure to comply with the Contract Documents, and the removal, replacement and reinstallation of equipment and materials. Contractor warrants such repaired or replaced work against defective materials and workmanship for a period of two years from and after IPC’s acceptance of the repair and replacement work. Should Contractor fail to promptly make the necessary repair, replacement and test, or should IPC determine that an emergency or exigent circumstances exist such that IPC must repair or replace any equipment or apparatus as promptly as practicable, IPC may perform or cause to be performed the same at Contractor’s expense. IPC reserves the right to have any such repair or replacement work done when IPC deems advisable. Contractor and its surety or sureties, if any, shall be liable for the satisfaction and full performance of the warranties and obligations as set forth herein.

GC-23.4 Upon Notice received from IPC during the Warranty Period, Contractor shall, without additional compensation:

- a. Construction: Re-perform or cause to be re-performed any Work that is found to be deficient and non-conforming in that it fails to meet the standard set out in Section GC-23.2; and
- b. Equipment and Materials: Take such steps as may be necessary to repair or replace (at IPC’s option) any equipment or materials found to be defective or non-conforming due to failure to meet the standards set out in Section GC-23.2. Contractor agrees that Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.
- c. This Section GC-23 shall not limit any other remedies available to IPC under this Agreement or applicable law.

GC-23.5 Warranty Notice: Contractor’s warranty obligations and liabilities are conditioned on IPC delivering notice of an alleged deficiency or defect, after actual discovery thereof by IPC. Any such Notice of deficiency or defect shall state with reasonable specificity the observation of the deficiency or defect and the reasons supporting IPC’s belief concerning the alleged deficiency or defect. Contractor shall respond to any such Notice not later than five Days after receipt of any such notice, and Contractor shall promptly commence the appropriate re-performance, repair, or replacement, consistent with Section GC-23.4.

GC-23.6 All warranties or guarantees incorporated into the Project shall be delivered to IPC upon payment for the same but in no event later than Contractor’s final Application for Progress Payment. Final payment is contingent upon receipt of all such written warranties, which must be valid and enforceable by IPC. Effective upon the written demand of IPC or upon the insolvency, bankruptcy, dissolution, or other incapacity of the Contractor, Contractor assigns to IPC all Contractors and Subcontractors’ warranties in materials and equipment and other portions or components of the Work.

GC-23.7 Contractor shall collect, assemble in a binder and submit to IPC written warranties and related documents provided by Contractors and Subcontractors, including but not limited to suppliers of

equipment, appliances, and other components of the Project. Contractor shall ensure that all such written warranties extend to IPC.

GC-23.8 In addition to the warranties set forth in above, Contractor shall make any and all repairs or replacements resulting from defects in materials or workmanship or non-conforming Work at its own cost for a period of two years following Final Completion of the Work. In addition to all other obligations herein, Contractor shall indemnify, defend, reimburse, and hold IPC and the IPC's employees and agents harmless from all claims, liabilities, losses, actions, awards, costs, expenses and damages, whether actual or merely alleged and whether directly incurred or from a third party, including but not limited to attorney's fees and related costs, arising from any such defects or non-conforming Work during such periods. Contractor shall make the repairs and replacements required of Contractor promptly upon receipt of written notification from IPC. If Contractor fails to make such repairs and replacements promptly, IPC may repair or replace the defective element of the Project and Contractor shall reimburse IPC for the cost thereof, (together with an administrative fee of fifteen percent (15%) of the cost of the repairs or replacement work) within 10 Days after written demand; and, IPC may also withhold payments to Contractor.

#### **GC-24 COLLATERAL WORK**

GC-24.1 IPC reserves the right to have separate contractors, IPC's employees or agents, as it may elect, enter upon the property near, or the location of, the Work for the purpose of constructing or installing collateral work. Contractor shall cooperate and work in harmony with IPC's employees, agents, and other contractors used by IPC.

#### **GC-25 REGULATIONS AND PERMITS**

GC-25.1 Contractor shall comply with all federal, state, and local laws, ordinances, and regulations affecting the conduct of the Work, and all such orders or decrees as currently exist and those which may be enacted later, by bodies or tribunals having jurisdiction or authority over the Work; shall give all notices; and shall procure all applicable permits, licenses, and inspections and pay all fees and charges in connection therewith, except as may otherwise be provided in the Contract Documents. In addition to all other obligations herein, Contractor shall indemnify, defend, and save harmless IPC, affiliates, directors, officers, employees, agents and its representatives, and each of them from, for, and against any and all claims, losses, costs, damages, and expense, whether actual or merely alleged and whether directly incurred or from a third party, including attorney and expert fees and costs both at trial and on appeal, arising from or based on the violation of any such laws, ordinances, regulations, orders, or decrees, whether such violations be by Contractor, Subcontractors, or their agents or employees. Upon and as a condition of achievement of Final Completion of the Work, Contractor shall provide to IPC the originals of all permits, receipts, certificates, licenses, and other documents received in complying with this Section GC-25.1.

GC-25.2 Should any discrepancy or inconsistency be discovered between the Agreement and any law, ordinance, regulation, order, or decree, Contractor shall immediately report the same in writing to IPC. If Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building or other codes, and rules, and regulations or other lawful orders of public authorities without such notice to IPC, Contractor shall assume responsibility for such Work and shall bear the costs attributable to correction. Contractor shall be responsible for the compliance of all laws, ordinances, regulations, orders, or decrees by Subcontractors.

#### **GC-26 EASEMENT AGREEMENTS**

GC-26.1 Contractor agrees to abide by and conform with all conditions set forth in the easements pertaining in any manner to the Work; such easements being expressly made a part of the Contract Documents.

## **GC-27 UNDERGROUND UTILITIES**

GC-27.1 Contractor shall, unless otherwise specifically provided for in writing, make arrangements with utilities and a locating company to identify the location of all underground utilities prior to commencing Work. Contractor agrees that all Work shall be done at Contractor's risk regardless of whether IPC or any other person requests the location of the underground utilities. If any loss or damage shall result, Contractor shall promptly repair or replace such loss or damage free from all expense to IPC.

## **GC-28 INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; LICENSES**

GC-28.1 Contractor represents and warrants that any Work performed by Contractor and Subcontractor, and each component thereof, including code and any embedded software, when properly used as contemplated herein, and their copying, use, modification and distribution as contemplated by the Agreement shall not infringe or misappropriate any third party's intellectual property rights. To the extent necessary for IPC's use of the Work and Work Product as contemplated by the Agreement, Contractor grants to IPC a license (or sublicense, as applicable) to all intellectual property included or incorporated into the Work and the Work Product. Contractor represents and warrants to IPC that it has obtained all authorizations and agreements necessary for Contractor to sublicense to IPC (or other form of authorization for IPC) all third party intellectual property incorporated into the Work and Work Product to the fullest extent necessary for IPC to use the Work and Work Product for the purposes contemplated by the Agreement. In addition to all other obligations herein, Contractor shall assume all liability and fully defend, indemnify and save harmless IPC, its members, partners, officers, directors, affiliates, agents, and employees of any of them, successors of the foregoing and assigns, from, for, and against all claims, suits, proceedings, damages, losses, expenses, fees and royalties, including but not limited to attorneys' and expert witnesses' fees and related costs, disbursements and expenses, arising from any infringement or misappropriation, whether actual or merely alleged and whether directly incurred or from a third party, of any patent, trademark, copyright, or other intellectual property right of any article, machine, manufacture, structure, composition, arrangement, improvement, design, device, methods or process embodied or used in the performance of the Agreement or the Work. IPC and its successors and assigns will give written notice of all such infringement and misappropriation claims, suits, or proceedings instituted against it to the Contractor, who shall defend same, and IPC will give Contractor reasonable assistance at Contractor's expense.

## **GC-29 REMOVAL OF EQUIPMENT**

GC-29.1 Contractor shall not sell, assign, mortgage, hypothecate, or remove equipment or materials which have been installed or which may be necessary for the completion of the Work, without the written consent of the IPAR.

## **GC-30 ASSIGNMENT OF CONTRACT**

GC-30.1 Contractor shall not assign any of the Contract Documents or any portion thereof or any rights therein, or delegate any of its duties, in each case whether by operation of law or otherwise, to any person, persons, entity, or organization without the prior written consent of IPC. The Parties acknowledge that the Work contemplated by the Contract Documents constitutes specialized services, and as such IPC may withhold its consent to Contractor's assignment of its rights and delegation of its duties in IPC's sole discretion. No assignment, even though IPC shall have consented to such assignment, shall relieve Contractor from its liability or obligations under the Contract Documents for the performance and completion of the Work by the time and in the manner herein contracted for, and all such assignment shall be subject to the rights provided to IPC herein. IPC may assign the Agreement and any rights and obligations relating to the Agreement (including but not limited to its right to assert claims and defenses against Contractor) at IPC's discretion. Each contract or arrangement Contractor executes with a Subcontractor shall state that the Subcontractor agrees to

the assignment of the subcontract to IPC, and Contractor shall ensure that each contract Subcontractor executes related to the Project shall have the same requirement.

### **GC-31 IPC'S RIGHT TO TERMINATION FOR CONVENIENCE**

GC-31.1 IPC may, at its option, for any reason, and without notice and without cause, terminate or suspend the Agreement in whole or in part, at any time by written notice thereof to Contractor, whether or not Contractor is in default. Such termination shall also terminate all subcontracts pertaining to such Work. Contractor hereby waives any claims for damages, including without limitation loss of anticipated profits, on account thereof, and shall cause Subcontractors to waive the same. As the sole right and remedy of Contractor, IPC shall pay Contractor in accordance with Section GC-31.3 below; provided, however, that those provisions of the Contract Documents which by their very nature survive final acceptance of the Work shall remain in full force and effect after such termination.

GC-31.2 Upon receipt of any such notice, Contractor shall, unless the notice requires otherwise:

- a. Immediately discontinue Work on the date and to the extent specified in the notice;
- b. Place no further orders or subcontracts for materials, services, or facilities other than may be necessary or required for completion of such portion of the Work not terminated;
- c. Promptly terminate and cancel, upon terms satisfactory to IPC, all orders and subcontracts to the extent they relate to the performance of the Work terminated or, at IPC's election, assign IPC those orders and subcontracts and revoke agreements specified in such notice; and
- d. Assist IPC, as specifically requested in writing, in the maintenance, protection, and disposition of property acquired by IPC under the Agreement.

GC-31.3 IPC shall not be liable for indirect, incidental, or consequential damages of any kind related to termination of this Agreement. Upon any such termination, IPC will pay to Contractor an undisputed amount determined in accordance with the following (without duplication of any item):

- a. Subject to offsets, all undisputed amounts due and owing and not previously paid to Contractor for Work completed prior to such notice and for Work thereafter completed as specified in such notice.
- b. The reasonable costs incurred pursuant to Section GC-31.2.d. above.

### **GC-32 IPC'S RIGHT TO TERMINATE THE AGREEMENT FOR CAUSE**

GC-32.1 Each of the following shall constitute an event of default by Contractor under this Agreement:

- a. If Contractor utilizes improper materials or inadequately skilled workers;
- b. If Contractor fails to make prompt payment when due to any Subcontractor;
- c. If Contractor fails to abide by the orders, regulations, rules, ordinances, or laws of governmental authorities having jurisdiction;
- d. If Contractor fails to perform under the Agreement or Contract Documents;
- e. If Contractor abandons the Work;
- f. If Contractor assigns the Agreement in violation of the Agreement or Contract Documents;
- g. If Contractor subcontracts Work without consent of IPC in violation of the Agreement or Contract Documents;
- h. If Contractor fails, neglects, refuses, or is unable at any time during the course of the performance of the Work to provide sufficient material, equipment, services, or labor to timely perform the Work;
- i. If Contractor sells or transfers all or substantially all of its assets;

- j. If Contractor merges with or into any other entity;
- k. If Contractor is in breach of any representation, obligation, or warranty given in this Agreement;  
or
- l. If IPC assesses Delay Liquidated Damages in an amount equal to any individual cap, if such cap exists (unless such Delay Liquidated Damages cap is increased by mutual written agreement of the Parties). If no such cap exists, IPC has the right to terminate the Agreement for cause at any point Contractor fails to complete the Work in accordance with the Agreement and the Approved Schedule.

GC-32.2 IPC will issue a written notice of default to Contractor in the event of default pursuant to Section GC-32.1. If, after receipt of such written notice, Contractor fails to cure the default(s) within seven Days, IPC may, without prejudice to any other rights or remedies it may have under the Agreement, terminate the Agreement for cause; provided, however, that if the nature of the default is such that it could not reasonably be cured within the seven day period, then IPC may terminate the Agreement for cause immediately upon providing written notice to Contractor. IPC will issue a written notice of termination to Contractor at the time this Agreement is terminated. Upon such termination, IPC may:

- a. Take possession of the Work site;
- b. Take possession of all Contractor's materials, equipment, tools, and construction equipment;
- c. Accept assignment of subcontracts at all tiers; and
- d. Finish the Work by whatever reasonable method IPC may deem necessary.

GC-32.3 If IPC terminates this Agreement pursuant to Section GC-32.2, IPC shall not be required to make any payments for Work completed from and after the date of termination. IPC shall determine the total expenses that will be incurred by it and accrued in completing the Work including, without limitation, any costs of accelerated or expedited construction methods incurred in an attempt to mitigate delay, liquidated damages, charges for administering subcontracts, and legal fees associated with the termination. If such expenses exceed the balance of the Contract Price that is unpaid as of the date of termination, then Contractor shall be liable for and shall pay to IPC the amount of such excess within ten (10) Days following receipt of IPC's demand for such payment. IPC shall not be required to obtain the lowest price for completing the Work, but may make such expenditures as in its sole judgment shall best accomplish such completion. All unpaid Delay Liquidated Damages that have accrued up to the date of termination shall be immediately due and payable by Contractor to IPC regardless of IPC's failure to request such amounts.

GC-32.4 If IPC terminates this Agreement pursuant to Section GC-32.2, IPC shall have the right to (i) offset any amounts owed by IPC to Contractor, under any active agreement between Contractor and IPC, against any and all amounts owed by Contractor to IPC as of the date of termination, (ii) apply any amounts held as accumulated retainage or any amounts held as security for the completion of Punch List Items or uncompleted Work or to cover the cost of Punch List Items or uncompleted Work against any and all amounts owed by Contractor to IPC as of the date of termination, (iii) draw upon and retain any security to cover the cost of any and all amounts owed by Contractor, and (iv) stop all further payments to Contractor until the Work is complete.

GC-32.5 If a termination of the Agreement in whole or in part pursuant to this Section 32 is deemed in a final judgment to be wrongful, then the termination shall automatically be converted to a termination for the IPC's convenience pursuant to Section GC-31.

GC-32.6 This Agreement shall terminate immediately at IPC's discretion if (i) Contractor files a petition seeking to take advantage of any law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts and, in the case of any such proceeding instituted against Contractor (but not by Contractor) such proceeding is not dismissed within 30 Days of such filing; or

Contractor makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of Contractor.

### **GC-33 IPC'S RIGHT TO IMMEDIATELY TERMINATE OR SUSPEND**

GC-33.1 Notwithstanding Sections GC-31 and GC-32 above, IPC may terminate or suspend this Agreement or the Work performed thereunder, in whole or in part, immediately and without prior notice to Contractor if, in IPC's sole and reasonable discretion, IPC determines that Contractor's or any Subcontractor's acts or omissions with respect to the Work or the Work site pose an imminent threat to: 1) the life, safety, or physical security of, those performing labor or Work or furnishing materials or equipment at or near the Work site, or any other persons who may be affected thereby, including, without limitation, IPC employees, agents, or any separate IPC consultants or contractors at or near the worksite, or members of the public; or 2) the environment, including without limitation, any public or private lands.

If IPC exercises its rights under this Section GC-33, Contractor and all Subcontractors performing Work at or near the Work site shall immediately discontinue all Work as directed by IPC. No Work shall resume and neither Contractor nor any Subcontractor shall enter the Work site unless and until IPC determines, in its sole discretion, that the conditions or circumstances giving rise to any such suspension of the Work or the Agreement have been abated and IPC provides notice to resume the Work. Alternatively, IPC may exercise its right to terminate the Agreement in accordance with Section GC-31 or Section GC-32 above.

### **GC-34 HAZARDOUS MATERIALS, ARTIFACTS, WETLAND CONDITIONS, AND MATERIALS BROUGHT TO WORK SITE**

GC-34.1 If after the commencement of the Work, Hazardous Material is discovered at the Work site, Contractor shall immediately stop Work in the affected area. Contractor shall immediately report the condition to IPC in writing and, if required, the government agency with jurisdiction.

GC-34.2 Contractor shall not be required to perform any Work relating to or in the area of Hazardous Material without written direction, by IPC.

GC-34.3 If Contractor or Subcontractor did not bring the Hazardous Material to the Work site, IPC shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Contractor shall resume Work in the area affected by any Hazardous Material only upon written direction by IPC after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

GC-34.4 If Contractor incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Time; provided, however, that Contractor is required to take all reasonable measures to mitigate any delay or cost, and that Contractor will not be entitled to an equitable adjustment if Contractor brought the Hazardous Material to the Work Site. Contractor shall only be able to recover additional actual direct costs caused by the presence or remediation of Hazardous Material, not indirect, incidental, or consequential costs.

GC-34.5 Contractor agrees that Safety Data Sheets (SDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Contractor, Subcontractors, IPC, or others, shall be maintained at the Work site by Contractor and made available to IPC, Subcontractors, IPC, and others.

GC-34.6 Contractor shall be solely responsible for the proper delivery, handling, application, storage, removal and disposal of all materials and substances brought to the Work site by Contractor and Subcontractor in accordance with the Contract Documents and used or consumed in the performance of the Work.

GC-34.7 Contractor shall defend, indemnify, reimburse, and hold harmless IPC, its agents, officers, directors, partners, agents and employees, and the successor of the foregoing, from, for, and against any and all claims, damages, losses, costs and expenses, whether actual or merely alleged and whether directly incurred or from a third party, including but not limited to attorney's and expert witness fees, costs and expenses incurred arising out of or relating to the delivery, handling, application, storage, removal and disposal of all materials and substances brought to the Work site by the Contractor, Subcontractor, or anyone for whose acts or omissions they are responsible for, in accordance with the Contract Documents; provided that injury to persons or damage to property is not exclusively caused by the sole negligence of IPC.

GC-34.8 The terms of this Section GC-34 shall survive the completion of the Work or any termination of this Agreement.

GC-34.9 If after the commencement of the Work, a wetland condition or archeological site is discovered at the Work site, the Contractor shall immediately stop Work in the affected area. Contractor immediately shall report the condition to IPC in writing and, if required, the government agency with jurisdiction. The term "wetland condition" shall mean and include any "wetland" and "waterbody" subject to regulation under the federal Clean Water Act and similar terms as used in applicable federal, state and local statutes, rules and regulations. The term "archeological site" shall mean and include any cairn, burial, human remains, funerary object, sacred object or object of cultural patrimony of any native Indian.

GC-34.10 Contractor shall not install any material that contains asbestos. If requested by IPC in writing, Contractor shall certify in writing that Contractor's Work did not contain any asbestos materials. Contractor shall provide such certification to IPC as part of the Record Documents.

## **GC-35 CONTRACTOR'S RECORD**

GC-35.1 During the term of the Agreement and for a period of five years thereafter, Contractor shall keep all books, records, and other documents pertaining to the Work, and IPC shall have the right to examine any books, records, and other documents of the Contractor pertaining to the Work and including, but not limited to, costs or charges submitted to or paid by IPC as compensation to Contractor hereunder. IPC will give Contractor three Days' advance written notice of such intended examinations. Contractor's records shall be kept in accordance with generally accepted accounting principles in the particular industry in which Contractor works and shall be kept in such a manner and in sufficient detail to clearly disclose the nature and amounts of the different items of service and cost pertaining to the Agreement and the basis of charges and allocations to the Work.

## **GC-36 EDISON ELECTRIC INSTITUTE/OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION PARTNERSHIP BEST PRACTICES FOR UTILITY CONTRACTORS RULES**

GC-36.1 In conjunction with an initiative promulgated by the Edison Electric Institute ("EEI") and the Occupational Safety and Health Administration ("OSHA") intended to reduce injuries and fatalities of workers in the electrical transmission and contracting industry, IPC requires that all contractors and subcontractors performing work for IPC for the purposes of electrical transmission, distribution, or generation, comply with the EEI and OSHA Partnership Best Practices for Utility Contractors rules, as those practices may be amended from time to time. These rules can also be accessed at OSHA's website. Contractor agrees to manage and train its employees and Subcontractors to ensure their compliance with these rules. Failure of Contractor to comply with the referenced Rules will constitute a material breach of this Agreement.

## **GC-37 IDAHO POWER COMPANY STANDARD SECURITY TERMS**

GC-37.1 Contractor shall comply with all obligations set forth in the *Idaho Power Company Standard Security Terms* attached as Exhibit A to this Agreement and incorporated herein by this reference. In

the event of any conflict or inconsistency between this Agreement and those of Exhibit A, the terms of Exhibit A shall govern and control to the extent of such conflict or inconsistency.

END OF GENERAL CONDITIONS FOR CONSTRUCTION SERVICES

## Attachment A to Exhibit A

### IDAHO POWER COMPANY

#### Standard Security Terms

**1. Data Ownership, Data Security, and Physical and Electronic Protection.** IPC Data shall remain the sole property of IPC. Contractor shall not use IPC Data for any purpose other than to perform its obligations under the Agreement between Contractor and IPC. Contractor shall not sell, assign, lease, transfer or otherwise disclose IPC Data to third parties for any reason, commercial or otherwise, without prior written consent from IPC. The term “IPC Data” means all data and information regarding IPC or its customers and vendors (other than Contractor) that (i) IPC furnishes, discloses, or otherwise makes directly or indirectly available to Contractor or Subcontractors at all tiers by or on behalf of IPC under the Agreement, including without limitation, Personal Data<sup>1</sup>; (ii) Contractor or any Subcontractor collects or creates on behalf of IPC in the course of performing its obligations under the Agreement; or (iii) is CEII. As used in this Addendum, CEII means Critical Energy / Electric Infrastructure Information, as defined by the Code of Federal Regulations, Title, 18, § 388.113, of IPC (“CEII”). CEII includes both Critical Energy Infrastructure Information and Critical Electric Infrastructure Information.<sup>2</sup>

GC-37.1.1. Data Security. Contractor represents, warrants, and covenants to IPC that Contractor has developed and implemented, currently has in place, and shall maintain during the term of the Agreement a comprehensive information security program (collectively, “Security”) that includes administrative, technical, and physical safeguards and controls across the Contractor’s supply chain sufficient to ensure the security and confidentiality of IPC Data and all network communication and data systems and equipment that Contractor procures on behalf of, or supplies to, IPC for purposes of performing Contractor’s obligations under the Agreement, including but not limited to hardware (e.g., computers, servers, routers, data centers, switches, operational technology equipment (e.g., HMIs, PLCs, DCSs, IEDs, protective systems, etc.)), software (e.g., operating systems, content management systems, etc.), networking equipment, and integrated systems comprised of such components (collectively, “Procured Systems”). Contractor shall document its Security and all safeguards, procedures, and controls and keep them current in light of changes in relevant technology and provide IPC with a copy of the same upon request and at no cost to IPC. Any changes to Contractor’s Security shall not decrease the protections afforded to IPC, IPC Data, or the Procured Systems, and any material changes shall be communicated to IPC in writing by Contractor prior to implementation. Such Security shall include, but not be limited to, the following, unless otherwise authorized in advance in writing by IPC with a specific reference to these Standard Security Terms:

- a) Contractor shall utilize industry-accepted firewalls, up-to-date anti-malware software, and non-end-of-life operating systems on all systems and networks containing IPC Data and/or connecting to, or running on, Procured Systems and/or IPC systems or networks;
- b) Unless otherwise mutually agreed, Contractor solutions will not require any end-of-sale, end-of-support, and end-of-life software or hardware, or any software or hardware that is known to be reaching such status within 6 months after the date of installation;
- c) Contractor solutions will support the latest version of operating systems on which Contractor-provided software functions within 24 calendar months from official public release of that operating system version;

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<sup>1</sup> As used in these Standard Security Terms, “Personal Data” means information that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses and other unique identifiers); (ii) can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, financial account numbers, credit report information, biometric or health data, answers to security questions and other personal identifiers); or (iii) relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with an individual, including inferences about such individual.

<sup>2</sup> CEII includes, but is not limited to: transmission conductor details, transmission structure design details, planned or expected transmission outages critical to the power system, substation design details, control center locations or design details, power plant facility design details, geographic coordinates more specific than line routes, and natural gas line locations or design details.

- d) Unless otherwise agreed by IPC in writing, no Procured Systems or their components or any other products or materials to be provided to IPC under the Agreement (but, in each case, not including raw materials (e.g. metals or other minerals)) may be manufactured in whole or in part by, nor may any services to be provided under the Agreement be provided by any natural person who is a national of the People's Republic of China ("PRC") or a company, partnership, or other legal entity:
  - a. organized in, or any person who is a national of, any country subject to any restrictions under the U.S. International Traffic in Arms Regulations ("ITAR") promulgated pursuant to the Arms Export Control Act, executive order 13637, or any successors thereto;
  - b. that, or any person who, is subject to restrictions by the Federal Communications Commission ("FCC") pursuant to Section 2 of the Secure Networks Act; or
  - c. that is (i) ultimately beneficially owned by one or more persons and/or entities that are nationals of the PRC or organized in the PRC, whose beneficial ownership of the person or entity in question in the aggregate is more than 50.0% of the equity capital of such person or entity in question or (ii) organized, or has the principal offices of its principal executive officers, in the PRC, unless the ultimate parent legal entity for any such entity is not organized, and does not have the principal offices of its principal executive officers, in the PRC.
- e) Contractor shall procure all electronic components for the Procured Systems directly from the manufacture or authorized resellers and ensure supply chain controls are in place to guarantee the integrity of the components being procured.
- f) Contractor shall implement a vulnerability patch management program to ensure systems containing IPC Data, and/or connecting to or running on Procured Systems, IPC systems, or networks are current with published patches and mitigations;
- g) Contractor shall ensure access is controlled to the physical location of the hardware containing IPC Data and Procured Systems;
- h) Contractor shall secure electronic access to Contractor's information systems containing IPC Data or connecting to Procured Systems;
- i) Contractor shall delete IPC Data from Contractor's file transfer infrastructure within 30 days of file creation;
- j) Contractor shall store, process, and maintain any and all IPC Data on designated target servers that reside physically within the boundaries of the United States;
- k) Contractor shall encrypt IPC Data during transmission using non-deprecated protocols;
- l) Contractor shall encrypt IPC Data using non-deprecated protocols while at rest including, but not limited to, workstations, portable computing devices or any other portable storage medium;
- m) Contractor shall not enter, process, transfer, or otherwise use IPC Data in any artificial intelligence tools without IPC's prior written consent on a case-by-case basis. In the event IPC provides such written consent, IPC shall remain the owner or licensee of all IPC Data that may be integrated into or included in anything developed by Contractor's or any other artificial intelligence technologies, software, systems, or tools regardless of whether artificial intelligence contributions are the result of mechanical reproduction or reflect the author's original mental conception;
- n) Contractor shall provide its workforce appropriate cybersecurity awareness training, including, but not limited to, an anti-phishing program;
- o) Contractor shall take measures to protect IPC Data and Procured Systems against destruction, loss, or damage due to potential environmental hazards, such as fire and water damage or technological failures;

- p) Contractor and its employees, agents, Subcontractors (defined in GC-1.1 of Exhibit A), and other personnel or entities within its control (“Contractor Personnel”) may not access or store IPC Data on any personal or third-party devices, including mobile devices, tablets, or personally owned laptops, unless such devices have been configured with industry standard security and encryption features, which shall include at a minimum remote wipe and remote shutdown capabilities;
- q) Contractor shall implement multi-factor authentication for remote access to systems that access Procured Systems or store IPC Data including cloud services and applications;
- r) Contractor or Subcontractors that send emails on behalf of IPC, must use a subdomain of idahopower.com and be configured with SPF, DKIM, DMARC and BIMI;
- s) Contractor will not send application generated emails to IPC recipients from mass mailing services unless static IP address(es) dedicated to IPC are used;
- t) Contractor will not transmit email to/from IPC unless the message is encrypted using TLS 1.2 or better;
- u) Contractor’s configuration of email will use industry best practices consistent with the latest version of NIST 800-177, as those standards may be amended;
- v) Contractor delivered solutions shall not transmit nor store passwords or other secrets in cleartext;
- w) Contractor shall remove all software components that are not required for the operation and/or maintenance of the solution such as device drivers, backdoors, messaging services, unused networking and communication protocols, etc.;
- x) If a virus or other malware is found to have been coded or otherwise introduced as a direct result of Contractor’s breach of its obligations under the Agreement, Contractor shall upon written request by IPC and at its own cost take all commercially reasonable actions (including assistance required by IPC) to (i) eliminate the virus or other malware throughout IPC’s information networks, computer systems, Procured Systems, and information systems, regardless of whether such systems or networks are operated by or on behalf of IPC and (ii) mitigate and restore any loss of efficiency or data caused by such virus or other malware.
- y) When install files, scripts, firmware, or other Contractor delivered software solutions (including third-party install files, scripts, firmware, or other software solutions) are flagged as malicious, infected, or suspicious by an anti-virus vendor, Contractor must provide or arrange for the provision of technical justification as to why the “false positive” hit has taken place to ensure their code’s supply chain has not been compromised.
- z) If providing software or firmware to IPC, contractor shall maintain a secure software development program which includes code review and validation, vulnerability and defect identification, reporting and remediation;
- aa) All contractor provided software installations shall contain code that is digitally signed to ensure the software has not been altered or corrupted;
- bb) If SaaS components are included as part of the Agreement, Contractor shall continuously (24x7x 365) monitor the security and functionality of the SaaS solution and respond to any security incidents to comply with the security requirements of the Agreement;
- cc) If replacement parts are included in the Agreement, Contractor shall ensure that all replacement parts are identical to the parts being replaced unless approved in writing by IPC;

GC-37.1.2. Compliance with Data Protection Rules. Contractor shall observe and comply with all applicable federal, state, and international data privacy and data protection laws and regulations that are now in effect or hereafter promulgated (“Privacy Laws”) that are applicable to: (i) Contractor’s performance of its obligations under the Agreement; or (ii) any IPC Data or Procured Systems that Contractor controls, accesses, receives, stores, processes, transmits, maintains, or possesses.

GC-37.1.3. Unescorted Access. Contractor Personnel who require electronic access to any network or information system owned by IPC shall complete IPC's on-line information security training, shall comply with IPC's information security requirements, policies, and procedures, and shall sign an agreement regarding compliance with IPC's Information Security Standards, including without limitation, both electronic and physical access requirements prior to receiving access. Contractor shall authorize only those Contractor Personnel who are necessary for and directly involved in Contractor's performance of its obligations under the Agreement, to have access to Procured Systems or IPC Data (whether physically or electronically) and solely on a "need to know" basis (collectively, "Authorized Persons").

GC-37.1.4. Security Screening. Contractor acknowledges and agrees that certain portions of IPC's premises may have restricted access and may require prior authorization or an IPC designated escort to allow Contractor access. Contractor shall comply with federal, state, or local laws or regulations and any applicable IPC policies, standards, and procedures related to physical security of its premises, including without limitation, any policies, standards, and procedures requiring drug screening, background checks, and social security verification prior to performing any other obligations under the Agreement for IPC. If Contractor requires unescorted access to IPC's network, or unescorted access to IPC's or its customer's premises, then Contractor shall perform drug screening, background checks and social security verifications for all Contractor Personnel who will have such access as required by IPC. Contractor shall not perform any other obligations under this Agreement until these requirements have been met.

GC-37.1.5. Remote and Onsite Access. If Contractor requires system-to-system, or unescorted remote or onsite access to IPC's network, systems or Procured Systems, Contractor shall:

- a) Coordinate with IPC on all remote and onsite access to IPC's systems, networks, and Procured Systems, and shall comply with any controls requested by IPC for interactive access and system-to-system access sessions including multi-factor authentication, dedicated IP address(es), time bound sessions, real time access approvals, etc.
- b) Contractor shall ensure Contractor Personnel simultaneously connect devices on any IPC system or network to any devices on any Contractor or third-party systems using only remote access methods consistent with IPC's remote access control policies.
- c) Contractor shall develop and implement policies and procedures to address the security of Contractor's remote and onsite access to IPC Data, IPC systems and networks, IPC property, and Procured Systems that is consistent with the personnel management requirements of industry standard practices (e.g., current version of NIST Special Publication 800-53 AC-2, PE-2, PS-4, and PS-5 as may be amended) and also meets the following requirements:
  - a. IPC Authority Over Access - In the course of furnishing products and services to IPC under the Agreement, Contractor shall not access and shall not permit Contractor Personnel to access IPC's property, systems, or networks or IPC Data without IPC's prior express written authorization, except as permitted under the Agreement. Such written authorization may subsequently be revoked by IPC at any time in its sole discretion. All connectivity or attempted connectivity by Contractor to IPC's systems or networks shall be in conformity with IPC's security policies as may be amended from time to time with notice to the Contractor.
  - b. Contractor Review of Access - Contractor will review and verify Contractor Personnels' continued need for access and level of access to IPC Data and IPC systems, networks and property on a quarterly basis and will retain evidence of the reviews for two years from the date of each review.
- d) Remote system-to-system connectivity must not have the capability to control any IPC owned power system.
- e) All file transfers into IPC's network or systems must use approved IPC file transfer methods.
- f) All telemetry connections must use approved IPC telemetry methods.

- g) Contractor shall not allow any Contractor Personnel to directly connect any device or removable media to IPC owned equipment without approval by IPC.
- h) Contractor shall not access any Procured Systems or IPC systems or networks via connections that either originate from or which traverse through facilities, equipment, and/or systems located in the PRC.

GC-37.1.6. Notification and Revocation. Contractor shall immediately take all steps reasonably necessary to remove Contractor Personnel's access to any IPC Data; any IPC systems, networks, or property; any Procured Systems; related to the Agreement, when:

- a) any Contractor Personnel no longer requires such access in order to furnish the services or products provided by Contractor under the Agreement,
- b) any Contractor Personnel is terminated or suspended, or his or her employment is otherwise ended,
- c) Contractor reasonably believes any Contractor Personnel poses a threat to the safe working environment at or to any IPC property, including to employees, customers, buildings, assets, systems, networks, trade secrets, confidential data, and/or employee or IPC Data,
- d) there are any material adverse changes to any Contractor Personnel's background history, including, without limitation, any information not previously known or reported in his or her background report or record,
- e) any Contractor Personnel fail to maintain conduct in accordance with the qualification criteria set forth in IPC's Independent Contractors Request for Unescorted Physical or Electronic Access Form (or equivalent or successor form).
- f) any US-based Contractor Personnel loses his or her U.S. work authorization.
- g) Contractor's provision of products and services to IPC under the Agreement is either completed or terminated, so that IPC can discontinue electronic and/or physical access for such Contractor Personnel.

Such steps shall include, but not be limited to, removing and securing individual credentials and access badges, multifactor security tokens, and laptops, as applicable, and returning to IPC any IPC-issued property including, but not limited to, IPC photo ID badge, keys, parking pass, documents, or electronic equipment in the possession of such Contractor Personnel. Contractor will notify IPC at ICProgram@idahopower.com once access to IPC Data, Procured Systems, as well as IPC property, systems, and networks has been removed. In addition, and in the event the Contractor's Personnel has access to IPC systems, facilities, or property, Contractor will notify IPC no later than close of business on the same day as the day of termination or change set forth above.

GC-37.1.7. Security Incident Response Plan. Contractor shall develop and implement a "Response Plan," which shall be policies and procedures to address Security Incidents. The Response Plan shall include appropriate provisions for mitigating the harmful effects of Security Incidents and addressing and remedying the occurrence(s) to prevent the recurrence of similar Security Incidents in the future. The development and implementation of the Response Plan shall follow industry standard practices, such as those that at a minimum are consistent with the contingency planning requirements of NIST Special Publication 800-61 Rev. 2, NIST Special Publication 800-53 Rev. 5, CP-1 through CP-13 and the incident response requirements of NIST Special Publication 800-53 Rev. 5, IR-1 through IR-10 as those standards may be amended or replaced. Immediately upon learning of a Security Incident related to the products and services provided to IPC, Contractor shall implement its Response Plan and, shall notify IPC in writing of that implementation as described below.

GC-37.1.8. Security Incident. Contractor shall notify IPC within 24 hours if Contractor discovers or becomes aware that:

- a) Contractor is not in compliance with or has violated any of the requirements of these terms and conditions;
- b) Contractor knows or reasonably suspects that IPC Data hosted or stored by the Contractor has been Disclosed;

- c) Contractor knows or reasonably suspects that an act or omission has compromised or may reasonably compromise the cybersecurity of the products and services provided to IPC by Contractor, including any Procured Systems;
- d) Contractor knows or reasonably suspects that the physical, technical, administrative, or organizational safeguards protecting Contractor's or IPC's systems, including without limitation any Procured Systems, storing or hosting IPC Data may have been compromised in such a way to pose a cyber security risk to IPC, IPC Data or Procured Systems;
- e) Contractor is not in compliance with applicable laws in connection with IPC Data;
- f) A verified impact to the cybersecurity of the products and services provided to IPC could pose a cybersecurity risk to IPC or any Procured Systems; or
- g) Contractor has initiated its Response Plan.

Each of (a), (b), (c), (d), (e), (f) and (g) is a "Security Incident".

As used in this section, the term "Disclosed" means any circumstance when the security, integrity, or confidentiality of any IPC Data has been compromised, including but not limited to, incidents where IPC Data has been damaged, lost, corrupted, destroyed, or accessed, acquired, modified, used, or disclosed by any unauthorized person, by any person in an unauthorized manner, or for any unauthorized purpose.

Any Security Incident must be reported to IPC immediately via email to [cybersecurity@idahopower.com](mailto:cybersecurity@idahopower.com) and by telephone at **(208) 388-2927**. Contractor acknowledges that in some instances, IPC has a reporting obligation to regulators and other third parties in the event of a Security Incident and that Contractor's compliance with the foregoing notification obligation is necessary for IPC's compliance with regulatory and legal obligations. Notification of a Security Incident must include a description, to the extent known, of the nature of the event, the date and time of the event, suspected type and amount of information exposed, steps being taken to investigate the circumstances of the exposure and remediate or mitigate the Security Incident. In the event Contractor is required by law enforcement to withhold such notification, Contractor is under no obligation to notify IPC until such withholding is no longer required. Contractor shall provide written updates of the initial written notice to IPC addressing any new facts and circumstances learned after the initial written notice is provided and shall provide such updates within a reasonable time after learning of those new facts and circumstances. Contractor shall cooperate with IPC in IPC's efforts to determine the risk to the bulk electric system (BES) posed by the Security Incident. In addition to all other remedies permitted under the Agreement and applicable law, Contractor shall be required to promptly remedy and mitigate any damages, losses, or expenses caused by a breach in the security of Contractor's systems, or Procured Systems, that adversely impacts IPC and take all measures as may be reasonably necessary to prevent any further Security Incident. Without obligating IPC to undertake any specific actions in the event of a Security Incident, Contractor must, at its sole cost and expense, cooperate with and assist IPC with any investigation of or response to a Security Incident, including but not limited to: (i) IPC's own investigation, analysis, and resolution of such Security Incident; (ii) subject to Section 1.9 of these Standard Security Terms, providing disclosures and breach notifications to affected parties such as individuals, regulatory and law enforcement agencies; (iii) providing support to IPC if IPC decides to deliver such notices; and (iv) providing other remedial measure as may be requested or required under applicable laws related to the Security Incident. Contractor shall provide IPC with details of the investigation and final disposition of the Security Incident relevant to the services or products provided to IPC or which may impact the confidentiality, integrity, or availability of those services or products and of any IPC Data or systems or Procured Systems. Contractor shall reasonably cooperate with governmental authorities and non-governmental entities in any action or proceeding as may be deemed necessary by IPC as the result of such Security Incident. Within five calendar days of a Security Incident, Contractor shall develop and execute a plan that reduces the likelihood of the same or a similar Security Incident from occurring in the future consistent with the requirements of its Response Plan and industry standards (e.g., NIST Special Publication 800-61 and NIST Special Publication 800-184, as may be amended or replaced) and shall communicate the implementation of such plan to IPC. If the Security Incident arises from a third-party supplier's software, equipment, or services, then if Contractor is permitted to disclose such information, Contractor shall provide updates to IPC of such third-party supplier's plan for the prevention of recurrence of such Security Incident. Except to the extent publicly available, any information provided hereunder by Contractor shall be treated as

confidential and not disclosed to any third party without Contractor's prior written approval, unless required by applicable governmental or regulatory entities. Within five calendar days of notifying IPC in writing of the Security Incident, Contractor shall recommend actions to be taken by IPC on IPC-controlled systems to reduce the risk of a recurrence of the same or a similar Security Incident, including, as appropriate, the provision of action plans and mitigating controls. Contractor shall coordinate with IPC in developing those action plans and mitigating controls. Contractor will provide IPC guidance, recommendations, and other necessary information for recovery efforts and long-term remediation and/or mitigation of cyber security risks posed to IPC Data, equipment, systems, networks, and Procured Systems.

GC-37.1.9. Notification to Affected Parties. In the event a Security Incident results in IPC Data being disclosed such that notification is required to be made to any person or entity, including without limitation any customer, shareholder, or current or former employee of IPC, under any applicable laws, including privacy and consumer protection laws, or pursuant to a request or directive from a governmental authority, such notification will be provided by IPC, except as required by applicable law or approved by IPC in writing. IPC shall have sole control over the timing and method of providing such notification.

GC-37.1.10. Audit Rights. Upon request, Contractor shall provide to IPC the opportunity to review a copy of the Contractor's policies, procedures, evidence and independent audit report summaries that are part of Contractor's cyber security framework (e.g., ISO-27001, SOC2). IPC or its third-party designee may, but is not obligated to, perform inspections, audits, or other tests of Contractor's IT or systems environment, including Procured Systems, and procedural controls to determine Contractor's compliance with the system, network, data, and information security requirements of the Agreement. Audits of Contractor shall be done with at least 30 calendar days' advance notice. These audits and tests will not unduly affect Contractor's operations and may include coordinated security tests, interviews of relevant personnel, review of documentation, and technical and physical inspections of Procured Systems, or Contractor's systems and networks. Contractor shall provide all information reasonably requested by IPC in connection with any such audits and shall provide reasonable access and assistance to IPC upon request. Contractor shall comply, within reasonable timeframes at its own cost and expense, with all reasonable recommendations that result from such inspections, tests, and audits. IPC reserves the right to view, upon request, any original security reports that Contractor has undertaken or commissioned to assess Contractor's own network security. If requested, copies of these reports will be reviewed on site at Contractor's facility at IPC's expense. Contractor will notify IPC of any such security reports or similar assessments once they have been completed. Any regulators of IPC or its affiliates shall have the same rights of audit as described herein upon request.

GC-37.1.11. Subcontractors. To the extent that Contractor is permitted to engage Subcontractors (defined in GC-1.1 of Exhibit A) to perform, or otherwise provide support to assist Contractor to perform, any portion of its obligations under the Agreement, then:

- a) Contractor shall not share or disclose, or engage a Subcontractor to access, store, process, transmit, or otherwise possess any IPC Data or Procured Systems, unless and until such Subcontractor has agreed in writing to protect IPC Data and Procured Systems in a manner substantially similar (but in any case, no less restrictive) to that required of Contractor under the Agreement, and then only on a need-to-know basis;
- b) Contractor shall cause such Subcontractors to comply with the obligations and restrictions associated with substantially the same services, tasks, functions, and responsibilities performed by such Subcontractors that are applicable to Contractor under the Agreement, including, without limitation, those obligations set forth in these Standard Security Terms; and
- c) Contractor shall remain responsible for the services, tasks, functions, and responsibilities performed by Subcontractors to the same extent as if such services, tasks, functions, and responsibilities were performed directly by Contractor and, for purposes of the Agreement, such work shall be deemed work performed by Contractor.

GC-37.1.12. Indemnification. In addition to any other indemnification obligations of Contractor set forth in the Agreement, Contractor shall indemnify, defend, and hold IPC, IPC Affiliates, and its and their respective officers, directors, employees, representatives, agents, successors, and assigns harmless from, for, and against any and

all allegations, claims, liens, liabilities, losses, demands, damages, expenses, suits, actions, proceedings, judgments, and costs of any kind whatsoever, including without limitation, settlement costs, court costs, and attorneys' and expert witness fees and expenses (collectively, "Damages") to the extent such Damages arise out of or in connection with:

- a) a Security Incident (including a Security Incident by a Subcontractor); or
- b) Contractor's, or any Subcontractor's, failure to comply with the requirements of these Standard Security Terms.

GC-37.1.13. Injunctive Relief. Contractor acknowledges and agrees that any breach or threatened breach of the obligations set forth in these Standard Security Terms may result in a substantial likelihood of irreparable harm and injury to IPC, for which monetary damages alone may be an inadequate remedy, and which damages may be difficult to accurately measure. Accordingly, Contractor agrees that in addition to any other remedies available, IPC shall have the right to seek injunctive relief as well as other equitable relief allowed by the federal and state courts. The foregoing remedy of injunctive relief is agreed to without prejudice to IPC's right to exercise any other rights and remedies it may have, including without limitation, the right to terminate the Agreement and seek damages or other legal or equitable relief.

GC-37.1.14. Actions Upon Termination of Agreement. Within 30 calendar days of the later of (i) completion of the delivery of the products and services to be provided under the Agreement, or (ii) the termination or expiration of the Agreement, Contractor shall:

- a) Physically seal and return via a bonded courier or as otherwise reasonably directed by IPC, all hardware and removable media owned or provided by IPC. IPC Data stored within that hardware and media shall not be removed or altered in any way.
- b) At no charge to IPC, provide to IPC a flat file export of IPC Data contained on Contractor systems using a mutually acceptable format (e.g. CSV, or other non-proprietary format). The export shall explicitly exclude the algorithms, logic, design, and coding methodology embodied in the Contractor's solution, website, software, and technology.
- c) Destroy all IPC Data contained on Contractor or third-party owned or operated systems, and other media. Contractor's destruction of IPC Data shall follow the latest version of NIST 800-88 (purge or destroy methods only). Contractor shall provide a certificate of destruction which shall enumerate the date of destruction, the method of destruction, the data sets involved, and the entity or individual who performed the destruction.

Within five days of the later of (i) completion of the delivery of the products and services to be provided under the Agreement, or (ii) the termination or expiration of the Agreement, all IPC network communications links installed by or through Contractor shall be terminated and removed.

GC-37.1.15. Regulatory Examinations: Contractor agrees that any regulator or other governmental entity with jurisdiction over IPC and its affiliates may examine Contractor's activities relating to the performance of its obligations under the Agreement to the extent such authority is granted to such entities under the applicable law. Contractor shall promptly cooperate with and provide all information reasonably requested by the regulator or other governmental entity in connection with any such examination and provide reasonable assistance and access to equipment, records, networks, and systems reasonably requested by the regulator or other governmental entity. Contractor agrees to comply with reasonable recommendations that result from such regulatory examinations within reasonable timeframes at Contractor's sole cost and expense.

GC-37.1.16. Survival. The rights and obligations set forth in these terms and conditions shall survive the expiration or termination of the Agreement for any reason, provided that following the expiration or termination of the Agreement, these Standard Security Terms shall terminate at such time as Contractor (nor any of its affiliates, employees, agents, advisors, or Subcontractors) does not possess or control any IPC Data and has provided written certification to IPC that all IPC Data which was previously in such possession or control has been either returned to IPC or destroyed in accordance with the standards set forth in Section 1.14 of these Standard Security Terms.