# Gencon Devon LLC

**Purchase Order** 18371(DEVGENCON) **Sales Tax Status** Taxable

**GCD - 2024 Generator Testing**

| | | | |
|---|---|---|---|
| **Revision Number** | 1 | **Supplier** | BASELOAD POWER GENERATION PARTS AND SERVICES LLC |
| All previous revisions are no longer valid. | | **Address** | 3609 CR 55A<br>CORPUS CHRISTI TX<br>78406<br>United States |
| **Order Date** | 02/12/2024 | | |
| **Purchase Order Due Date** | 02/12/2024 | **Telephone** | 3618767751 |
| | | **Fax No.** | 0000000000 |
| **Delivery Address** | Devon Gencon<br>734 Naugatuck Ave<br>Milford, CT 06461-2915 | **Invoice Address** | Devon Gencon<br>734 Naugatuck Ave<br>Milford, CT 06461-2915 |

**Service Line Items**

| Line | Task Plan | Due Date<br>Hours Requested | UOM | Quantity<br>Rate<br>Total Tax Amount | Total |
|---|---|---|---|---|---|
| 10 | GCD - 2024 Project Generator Testing. | 02/12/2024 | | 1 | USD |

**WO - Act** 258594 - 10
**Req - Line** 19976 - 10

**RFQ**

**Activity/PO Line Comments:**

Lump sum purchase.

Furnish labor, equipment, and materials to perform the following work scope in support of the 25/40K Hour Inspection of the Unit 15 Brush Generator at the GenConn Devon Generating Site.

Check air filters, make recommendations based on conditions.
Check operation of electrostatic oil mist precipitator, if so equipped.
Check condition of shaft earthing brush, contact area and wear patterns.
Check enclosure seals, inspect for water or dust ingress, make recommendations.
Check and clean vent pipe filter. • Check oil pipe flanges for leaks, recommend repairs.
Check air inlet seals to insure no oil ingress in the machine.
Check bearing shaft seals for proper clearances and leaks.
Check and clean the exciter/PMG.
Check and clean rectifier, to include all fuses and diodes.
Check cooler for leaks. (if equipped)
Check line/neutral cubicles, clean and tighten all links, if accessible.
Check operation of all heaters, stator and exciter, generator.
Check rotor earth ground fault detection system. * (Unit must be operating to perform this function)
Check mechanical protection devices, check IR.
Roll bearings and inspect. Check for pressure concentrations, scoring and drag marks. Check clearances.

Stator Electrical Testing - Megger Conduct PI (Polarization Index) Winding Resistance Winding RTD test.
Rotor Electrical Testing - Megger (Insulation Resistance) Conduct PI (Polarization Index)

Furnish Inspection Kit and all tooling.

Price = $
Pricing only per Baseload Power Quotation BLP240104DEV2, dated January 4, 2024.
GenConn Devon Unit 15 outage is scheduled from 04/01/2024 to 04/07/2024.

| | | | | | |
|---|---|---|---|---|---|
| 20 | GCD - 2024 Project Generator Testing. | 04/08/2024 | | 1 | USD |
| | | | | 0.00 | |

**WO - Act** 258594 - 20
**Req - Line** 21371 - 10

# Gencon Devon LLC

**RFQ**

**Activity/PO Line Comments:**
Lump sum purchase.

Furnish and install the following parts found in need of replacement as discovery during the Unit 15 Generator Inspection:

| Manufacturer Part Number | Description | Unit Cost | Quantity | Price S314149411 |
|---|---|---|---|---|
| Seal, OB $ | 2 | $ | | |
| S313223714,17, -21 | Hose, JO/TO | $ | 6 | $ |
| BLP080719GLC | Coupling, Kit/w Hubs Greaseless | $ | 1 | $ |
| S313568201 | Check valve, Jacking oil | $ | 6 | $ |

Labor = included in inspection pricing.

Price =

Pricing only per Baseload Power Quotations dated 4/2/2024.

| | Total | USD |
|---|---|---|
| **Currency** US Dollar | **Total** | |
| | **Discount %** | 0.00 |
| | **Contract** | 0 |
| | | **Total** |

## PO Details

| | | |
|---|---|---|
| **Payment Terms** | ZN30 | NET 30 DAYS |
| **Freight Terms** | FOB ORIGIN-PPA | FOB ORIGIN - FREIGHT PREPAID & ADD |
| **FOB Point** | 2 | ORIGIN |
| **Pay By Method** | C | PAY BY CHECK |

**Master Agreement No.** DGCP-2024-0625-CD

**Approved By:** CORNELIUS DALY (NEIL)
**Approver Phone:** 767-9090-0000
**Date Approved:** April 8, 2024
**Approver Email:** cdaly@alphagen.com

### Customer Contact Information

Name Sepulveda Sanchez, Santiago
Email ssantiago@camsops.com
Phone

***BACKUP DOCUMENTATION is required on T&M Purchases and Change Orders.***
Documentation
includes time sheets, part purchase receipts, hotel receipts, miscellaneous
receipts, car rentals, confirmation of mileage, etc.

Payment terms timelines for T&M invoices requiring documentation are based on the dates these documents are received.

***DEVON GENCON INVOICE ADDRESS***
Please ensure the above Purchase Order Number is referenced on ALL invoices,
delivery dockets and correspondence in relation to this order. All order documentation must separate
materials from labor/services and state the make, model & serial number
of all installed/serviced equipment.

Trade Discount is based on business days only.
Payment terms timelines for T&M invoices requiring documentation are based on the dates these documents are received.

To expedite payment please send invoices electronically to the Accounts
Payable Department at DEVGS.Invoices@alphagen.com

Devon Gencon
Attn: Donna Brannen - dbrannen@alphagen.com

# Gencon Devon LLC

PLEASE MARK OR NOTE ON LAST INVOICE "LAST INVOICE."

***PURCHASE ORDER TERMS & CONDITIONS***
This Purchase Order is in accordance with the attached Terms & Conditions.

***REQUIRES DETAILED REPORT PER MINIMUM REPORT REQUIREMENTS***
Supplier must adhere to the attached minimum report requirements for all serviced equipment.

***THIS PO IS A SERVICE AGREEMENT ORDER FOR A TERM INDICATED ON PO.***

***INSURANCE REQUIREMENTS FOR ALL SERVICES PERFORMED ON-SITE***
A certificate of insurance is required, to be kept on file by the Purchasing Department, before vendor labor/services are performed on-site at the station.

Minimum Insurance Coverage:
$1 Million - General Commercial Liability Aggregate

$1 Million - Auto

$4 Million - Excess Umbrella Aggregate

Workers Comp as per the Statutory Amounts or Higher

Insurers shall waive all rights of subrogation against Company and Additional Insureds.
Insurer shall list Company as Certificate Holder and Additional Insured.

# Gencon Devon LLC

**Purchase Order** 23494(DEVGENCON) **Sales Tax Status** Taxable

**Baseload - GCD 2025 Project - Unit 16 Generator Testing.**

**Revision Number** 2
All previous revisions are no longer valid.
**Order Date** 02/28/2025
**Purchase Order Due Date** 02/28/2025

**Delivery Address**
Devon Gencon
734 Naugatuck Ave
Milford, CT 06461-2915

**Supplier** BASELOAD POWER GENERATION PARTS AND SERVICES LLC
**Address**
3609 CR 55A
CORPUS CHRISTI TX
78406
United States
**Telephone** 3618767751
**Fax No.** 0000000000
**Invoice Address**
Devon Gencon
734 Naugatuck Ave
Milford, CT 06461-2915

## Part Line Items

| Line | Item | Quantity / UOM | Contract Discount % | Unit Price / Total Tax Amount / Total Extra Charges | Total |
|---|---|---|---|---|---|
| 20 | 1097455-P<br>Seal-Shaft,S314149411 LM GEN<br>**WO - Act** 395441 - 20<br>**Req - Line** 44627 - 10 | 2<br>EA | | 0.00<br>0.00 | USD |
| 30 | 1035053-P<br>Seal-Shaft,S314149412-Brush Generator,LM<br>**WO - Act** 395441 - 20<br>**Req - Line** 44627 - 20 | 2<br>EA | | 0.00<br>0.00 | USD |
| 40 | 25660<br>PDM4723<br>BOOT, INSULATION BOOT, F/ LM6000 BRUSH GENERATOR DISCONNECT LINKS<br>**WO - Act** 395441 - 20<br>**Req - Line** 44627 - 30 | 6<br>EA | | 0.00<br>0.00 | USD |
| 50 | 25690<br>BLP082219PJH<br>HOSE, 12", GE-PACKAGE, STAINLESS STEEL,<br>**WO - Act** 395441 - 20<br>**Req - Line** 44627 - 40 | 4<br>EA | | 0.00<br>0.00 | USD |

**Total** **USD**

## Service Line Items

| Line | Task Plan | Due Date / Hours Requested | UOM | Quantity / Rate / Total Tax Amount | Total |
|---|---|---|---|---|---|

# Gencon Devon LLC

| | | | | |
|---|---|---|---|---|
| 10 | GCD - 2025 Project Unit 16 Generator Testing. | 02/28/2025 | 1 | USD |

**WO - Act** 395441 - 10
**Req - Line** 34745 - 10

**RFQ**

**Activity/PO Line Comments:**
Lump sum purchase.
Furnish labor, equipment, and materials to perform the work scope as defined in Task Order 34745 in support of the 25/40K Hour Inspection of the Unit 16 Brush Generator at the GenConn Devon Generating Site.
Base scope per machine @ $ .00Greaseless Coupling @ $ installed(6) S313223714 hoses @ $ each installed = $
Price =
Pricing only per Task Order 34745, dated February 19, 2025.
GenConn Devon Unit 16 outage is scheduled from 04/07/2025 to 04/13/2025.

**Total USD**

**Currency** US Dollar

**Total**

| | |
|---|---|
| **Discount %** | 0.00 |
| **Contract** | 0 |

**Total**

| | | |
|---|---|---|
| **Payment Terms** | ZN30 | NET 30 DAYS |
| **Pay By Method** | C | PAY BY CHECK |

**Master Agreement No.** DGCP-2024-0625-CD

**Approved By:** CORNELIUS DALY (NEIL)
**Approver Phone:** 767-9090-0000
**Date Approved:** December 11, 2025
**Approver Email:** cdaly@alphagen.com

## Supplier Contact Information

Name John Alcorn
Email john.alcorn@baseloadfirst.com
Phone 9417695265
Address PO Box 10601
Corpus Christi
Corpus Christi TX 78460

## Customer Contact Information

Name Sepulveda Sanchez, Santiago
Email ssantiago@camsops.com
Phone

***BACKUP DOCUMENTATION is required on T&M Purchases and Change Orders.***
Documentation
includes time sheets, part purchase receipts, hotel receipts, miscellaneous
receipts, car rentals, confirmation of mileage, etc.

Payment terms timelines for T&M invoices requiring documentation are based on the dates these documents are received.

***DEVON GENCON INVOICE ADDRESS***
Please ensure the above Purchase Order Number is referenced on ALL invoices,
delivery dockets and correspondence in relation to this order. All order documentation must separate
materials from labor/services and state the make, model & serial number
of all installed/serviced equipment.

Trade Discount is based on business days only.
Payment terms timelines for T&M invoices requiring documentation are based on the dates these documents are received.

To expedite payment please send invoices electronically to the Accounts
Payable Department at DEVGS.Invoices@alphagen.com

Devon Gencon
Attn: Donna Brannen - dbrannen@alphagen.com

# Gencon Devon LLC

PLEASE MARK OR NOTE ON LAST INVOICE "LAST INVOICE."

***PURCHASE ORDER TERMS & CONDITIONS***

This Purchase Order is in accordance with the attached Terms & Conditions.

***REQUIRES DETAILED REPORT PER MINIMUM REPORT REQUIREMENTS***

Supplier must adhere to the attached minimum report requirements for all serviced equipment.

***INSURANCE REQUIREMENTS FOR ALL SERVICES PERFORMED ON-SITE***

A certificate of insurance is required, to be kept on file by the Purchasing Department, before vendor labor/services are performed on-site at the station.

Minimum Insurance Coverage:

$1 Million - General Commercial Liability Aggregate

$1 Million - Auto

$4 Million - Excess Umbrella Aggregate

Workers Comp as per the Statutory Amounts or Higher

Insurers shall waive all rights of subrogation against Company and Additional Insureds.
Insurer shall list Company as Certificate Holder and Additional Insured.

# Gencon Middletown LLC

**Purchase Order** 22753(MIDGENCON) **Sales Tax Status** Taxable

## GenConn Middletown Unit 13 Generator Inspection and Testing

| | | | |
|---|---|---|---|
| **Revision Number** | 1 | **Supplier** | BASELOAD POWER GENERATION PARTS AND SERVICES LLC |
| All previous revisions are no longer valid. | | **Address** | 3609 CR 55A<br>CORPUS CHRISTI TX<br>78406<br>United States |
| **Order Date** | 02/04/2025 | | |
| **Purchase Order Due Date** | 02/04/2025 | **Telephone** | 3618767751 |
| | | **Fax No.** | 0000000000 |
| **Delivery Address** | Middletown Gencon<br>1866 River Rd<br>Middletown, CT 06457 | **Invoice Address** | Middletown Gencon<br>1866 River Rd<br>Middletown, CT 06457 |

## Service Line Items

| Line | Task Plan | Due Date<br>Hours Requested | UOM | Quantity<br>Rate<br>Total Tax Amount | Total |
|---|---|---|---|---|---|
| 10 | GCMD - 2025 Unit 13 Project Middletown Generator Testing | 02/04/2025 | | 1 | USD |

**WO - Act** 354444 - 20
**Req - Line** 32854 - 10

**RFQ**

**Activity/PO Line Comments:**
Lump sum purchase.

Furnish labor, equipment, and materials to perform the work scope as defined in Task Order 32854 in support of the 40K Hour Inspection BDAX7-290ERJT Brush Generator for Unit 13 at the GenConn Middletown Generating Site.

Price = $

Pricing only per Baseload Power Quotation BLP250117DEV1, dated January 17, 2025.

| | | Total | USD |
|---|---|---|---|
| **Currency** | US Dollar | **Total** | |
| | | **Discount %** | 0.00 |
| | | **Contract** | 0 |
| | | | **Total** |

## PO Details

| | | |
|---|---|---|
| **Payment Terms** | ZN30 | NET 30 DAYS |
| **Pay By Method** | C | PAY BY CHECK |

**Master Agreement No.** MGCP-2024-0626-CD

**Approved By:** CORNELIUS DALY (NEIL)
**Approver Phone:** 767-9090-0000
**Date Approved:** February 11, 2025
**Approver Email:** cdaly@alphagen.com

### Supplier Contact Information

Name John Alcorn
Email john.alcorn@baseloadfirst.com
Phone 9417695265
Address PO Box 10601

### Customer Contact Information

Name Giuliani, Joseph
Email jgiuliani@camsops.com
Phone

# Gencon Middletown LLC

Corpus Christi
Corpus Christi TX 78460

***BACKUP DOCUMENTATION is required on T&M Purchases and Change Orders.***
Documentation
includes time sheets, part purchase receipts, hotel receipts, miscellaneous
receipts, car rentals, confirmation of mileage, etc.

Payment terms timelines for T&M invoices requiring documentation are based on the dates these documents are received.

***MIDDLETOWN GENCON INVOICE ADDRESS***
Please ensure the above Purchase Order Number is referenced on ALL invoices,
delivery dockets and correspondence in relation to this order. All order documentation must separate
materials from labor/services and state the make, model & serial number
of all installed/serviced equipment.

Trade Discount is based on business days only.
Payment terms timelines for T&M invoices requiring documentation are based on the dates these documents are received.

To expedite payment please send invoices electronically to the Accounts
Payable Department at MIDGS.INVOICES@alphagen.com

Middletown Gencon
Attn: Robin Harvey - rharvey@alphagen.com

PLEASE MARK OR NOTE ON LAST INVOICE "LAST INVOICE."

***PURCHASE ORDER TERMS & CONDITIONS***
This Purchase Order is in accordance with the attached Terms & Conditions.

***REQUIRES DETAILED REPORT PER MINIMUM REPORT REQUIREMENTS***
Supplier must adhere to the attached minimum report requirements for all serviced
equipment.

***INSURANCE REQUIREMENTS FOR ALL SERVICES PERFORMED ON-SITE***
A certificate of insurance is required, to be kept on file by the Purchasing Department, before vendor labor/services are performed on-site at the station.

Minimum Insurance Coverage:
$1 Million - General Commercial Liability Aggregate

$1 Million - Auto

$4 Million - Excess Umbrella Aggregate

Workers Comp as per the Statutory Amounts or Higher

Insurers shall waive all rights of subrogation against Company and Additional Insureds.
Insurer shall list Company as Certificate Holder and Additional Insured.

# Gencon Middletown LLC

**Purchase Order** 18372(MIDGENCON) **Sales Tax Status** Taxable

## Unit 14 Generator Inspection and Testing

| | | | |
|---|---|---|---|
| **Revision Number** | 1 | **Supplier** | BASELOAD POWER GENERATION PARTS AND SERVICES LLC |
| All previous revisions are no longer valid. | | **Address** | 3609 CR 55A<br>CORPUS CHRISTI TX<br>78406<br>United States |
| **Order Date** | 02/12/2024 | | |
| **Purchase Order Due Date** | 02/12/2024 | **Telephone** | 3618767751 |
| | | **Fax No.** | 0000000000 |
| **Delivery Address** | Middletown Gencon<br>1866 River Rd<br>Middletown, CT 06457 | **Invoice Address** | Middletown Gencon<br>1866 River Rd<br>Middletown, CT 06457 |

### Service Line Items

| Line | Task Plan | Due Date / Hours Requested | UOM | Quantity / Rate / Total Tax Amount | Total |
|---|---|---|---|---|---|
| 10 | Unit 14 generator inspection and testing. | 02/12/2024 | | 1 | USD |

**WO - Act** 258636 - 20
**Req - Line** 19841 - 10

**RFQ**

**Activity/PO Line Comments:**

Lump sum purchase.

Furnish labor, equipment, and materials to perform the following work scope in support of the 25/40K Hour Inspection of the Unit 14 Brush Generator at the GenConn Middletown Generating Site.

Check air filters, make recommendations based on conditions.
Check operation of electrostatic oil mist precipitator, if so equipped.
Check condition of shaft earthing brush, contact area and wear patterns.
Check enclosure seals, inspect for water or dust ingress, make recommendations.
Check and clean vent pipe filter. • Check oil pipe flanges for leaks, recommend repairs.
Check air inlet seals to insure no oil ingress in the machine.
Check bearing shaft seals for proper clearances and leaks.
Check and clean the exciter/PMG.
Check and clean rectifier, to include all fuses and diodes.
Check cooler for leaks. (if equipped)
Check line/neutral cubicles, clean and tighten all links, if accessible.
Check operation of all heaters, stator and exciter, generator.
Check rotor earth ground fault detection system.* (Unit must be operating to perform this function)
Check mechanical protection devices, check IR.
Roll bearings and inspect. Check for pressure concentrations, scoring and drag marks. Check clearances.

Stator Electrical Testing - Megger Conduct PI (Polarization Index) Winding Resistance Winding RTD test.
Rotor Electrical Testing - Megger (Insulation Resistance) Conduct PI (Polarization Index)

Furnish Inspection Kit and all tooling.

Price = $
Pricing only per Baseload Power Quotation BLP240104DEV2, dated January 4, 2024.

| | | | | | |
|---|---|---|---|---|---|
| 20 | Generator Testing | 04/01/2024 | | 1 | USD |
| | | | | 0.00 | |

**WO - Act** 244338 - 20
**Req - Line** 21251 - 10

**RFQ**

# Gencon Middletown LLC

**Activity/PO Line Comments:**

Time and Material Purchase. Furnish (1) Senior Field Engineer and (2) Technicians to perform additional work related to the inspection of the Unit 14 BDAX7-290ERJT Generator at the GenConn Middletown Generation Site.
Manhours:
1 Senior Field Engineer working 10 hours OT @ $ per hour = $
(2) Technicians working 20 hours OT @ $ per hour = $
Periderm @ $ per day X 3 days = $
(1) Lube Oil Pump coupling BLP080719GLC @ $
Thrust Oil/Jacking Oil hoses @ $ ea. X 6 = $
Price = $
Pricing only per Baseload Power change order proposal dated March 26, 2024.

| | | Total | USD |
|---|---|---|---|
| **Currency** | US Dollar | **Total** | |
| | | **Discount %** | 0.00 |
| | | **Contract** | 0 |
| | | | **Total** |

## PO Details

| | | |
|---|---|---|
| **Payment Terms** | ZN30 | NET 30 DAYS |
| **Freight Terms** | FOB ORIGIN-PPA | FOB ORIGIN - FREIGHT PREPAID & ADD |
| **FOB Point** | 2 | ORIGIN |
| **Pay By Method** | C | PAY BY CHECK |

**Master Agreement No.** MGCP-2024-0626-CD

**Approved By:** CORNELIUS DALY (NEIL)
**Approver Phone:** 767-9090-0000
**Date Approved:** April 1, 2024
**Approver Email:** cdaly@alphagen.com

### Customer Contact Information

Name Giuliani, Joseph
Email jgiuliani@camsops.com
Phone

***BACKUP DOCUMENTATION is required on T&M Purchases and Change Orders.***

Documentation
includes time sheets, part purchase receipts, hotel receipts, miscellaneous
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Middletown Gencon
Attn: Robin Harvey - rharvey@alphagen.com

PLEASE MARK OR NOTE ON LAST INVOICE "LAST INVOICE."

***PURCHASE ORDER TERMS & CONDITIONS***

This Purchase Order is in accordance with the attached Terms & Conditions.

# Gencon Middletown LLC

***REQUIRES DETAILED REPORT PER MINIMUM REPORT REQUIREMENTS***

Supplier must adhere to the attached minimum report requirements for all serviced equipment.

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A certificate of insurance is required, to be kept on file by the Purchasing Department, before vendor labor/services are performed on-site at the station.

Minimum Insurance Coverage:

$1 Million - General Commercial Liability Aggregate

$1 Million - Auto

$4 Million - Excess Umbrella Aggregate

Workers Comp as per the Statutory Amounts or Higher

Insurers shall waive all rights of subrogation against Company and Additional Insureds.
Insurer shall list Company as Certificate Holder and Additional Insured.

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**MASTER SERVICES AGREEMENT**

**NO. MGCP-2024-0626-CD,**

**by and between**

**GenConn Middletown LLC**

**and**

**Baseload Power Generation Parts & Services, LLC**

**as Contractor**

**dated as of**

**January 4, 2024**

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**LIST OF SCHEDULES, APPENDICES AND EXHIBITS**

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|---|---|---|
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# MASTER SERVICES AGREEMENT

This Master Services Agreement (this "*Agreement*") is effective as of January 4, 2024 (the "*Effective Date*"), between GENCONN MIDDLETOWN LLC, a Delaware Limited Liability Company ("*Owner*"), and Baseload Power Generation Parts & Services, LLC, a Texas Limited Liability Company ("*Contractor*"). Owner and Contractor may be referred to individually as a "*Party*" or collectively as the "*Parties*."

## RECITAL

WHEREAS, Owner desires to engage Contractor to perform, and Contractor desires to perform, certain services (the "*Services*") for Owner as further set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and the Parties intending to be legally bound, the Parties hereby agree as follows:

## 1. Definitions and Rules of Interpretation.

1.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"*Owner*" has the meaning set forth in the preamble hereof.

"*Affiliate*" means, in respect of a Person, any Person directly or indirectly controlling, controlled by or under direct or indirect common control with such Person. For purposes of this definition, "control" means (i) the ownership, directly or indirectly or through one or more intermediaries, of more than fifty percent (50%) of the outstanding voting securities in a Person or (ii)the power to direct the management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. The terms "controlling" and "controlled" have the meanings correlative to the foregoing.

"*Agreement*" has the meaning set forth in the preamble hereof.

"*Applicable Laws"* means all statutes, laws, treaties, ordinances, exemptions, judgments, decrees, injunctions, writs, orders, rules, regulations, and interpretations of any Governmental Authorities having proper jurisdiction over, or otherwise exercising authority with respect to, the Parties, the Services, or the performance of the obligations to be performed hereunder, as the case may be.

"*Bankruptcy Code*" means the Federal Bankruptcy Code of 1978.

"*Bankruptcy Event*" means, with respect to any Person: (i) the filing of a petition by or against a Person as "debtor" under the Bankruptcy Code seeking the adjudication of such Person as bankrupt or the appointment of a trustee, receiver, or custodian of such Person's assets and in case of a petition filed against such Person, such filing not having been withdrawn or dismissed within thirty (30) days after the date of such filing; (ii) the making by such Person of a general assignment for the benefit of creditors; (iii) the entry of an order, judgment, or decree by any court of competent jurisdiction appointing a trustee, receiver, or custodian to take possession of or control over the assets of such Person unless such proceedings and the person appointed are dismissed within thirty (30) days of the date upon which the court issued its order, judgment, or decree; or (iv) the determination by the Bankruptcy Court or the written admission of such Person that such Person is generally unable to pay his or her debts as they become due within the meaning of Section 303(h)(l) of the Bankruptcy Code.

"*Claim*" means any loss, liability, claim, judgment or Lien, including, without limitation, costs and expenses and attorneys' fees. "*Claims*" means all of the foregoing, collectively.

"*Compensation Terms*" has the meaning set forth in Section 3.1 hereof.

"*Confidential Information*" has the meaning set forth in Section 11.1 hereof.

"*Contract Documents*" means, in order of precedence, (i) this Agreement executed by the Parties, (ii) any Order Document, (iii) the Schedules attached to this Agreement and (iv) any manuals, procedures or policies in effect by Owner from time to time.

"*Contractor*" has the meaning set forth in the preamble hereof.

"*Contractor Staff*" has the meaning set forth in Section 6.3 hereof.

"*Defect*" or "*Defective*" means Services that are not (i) of good quality, free from faults and defects and in conformance with the Contract Documents, (ii) of all materials and equipment which are in strict accordance with manufacturer's requirements or (iii) in compliance with any specifications and the other requirements of this Agreement and Order Document, including any Change Orders.

"*Delay Liquidated Damages*" has the meaning set forth in Schedule E hereof.

"*Delaying Party*" has the meaning set forth in Section 17 hereof.

"*Effective Date*" has the meaning set forth in the preamble hereof.

"*Employer*" and "*Employers*" have the meanings set forth in Section 6.2 hereof.

"*Field Change Notice*" has the meaning set forth in Section 2.3(c) hereof.

"*Final Completion*" means (i) the performance of the Services by Contractor and (ii) removal of all of Contractor's supplies, personnel and waste from the Project Site in accordance with Section 5 of Appendix III attached hereto.

"*Final Completion Certificate*" means a certificate substantially in the form of Schedule F attached hereto.

"*Final Completion Date*" has the meaning set forth in Section 3.4 hereof.

"*Force Majeure Event*" means any event beyond the reasonable control of either Party that is not caused by the fault or negligence of the Party claiming Force Majeure to the extent such event prevents or delays the performance of any obligation arising under this Agreement or that causes damage to any portion of the Services, including, without limitation, natural disasters, fire, lightning, flood, earthquake, explosions, or acts of God or the public enemy, strikes or lockouts, vandalism, blockages, insurrections, riots, war, sabotage, action of a court or other public authority, and action or inaction by any Federal, state or local legislative body or executive, administrative, or judicial agency or body. Notwithstanding any provision of the foregoing definition to the contrary, Force Majeure shall not include (a) a Party's financial inability to perform, (b) failure of equipment necessary for the Services except if caused by Force Majeure (such exception not including any failure of equipment to operate to the extent caused by temperature, weather or other conditions within the operational tolerances of the equipment or part of the Services), (c) perils of sea, (d) delay, default or failure in the performance by any subcontractor or in obtaining materials except if caused by a Force Majeure Event, (e) any strike or lockout limited to employees of the Contractor or (f) sabotage by employees or subcontractors.

"*Governmental Authority*" means any federal, state, local or other governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity, or any political subdivision thereof, having legal jurisdiction over the matter or Person in question.

"*Hazardous Materials*" means any material that by reason of its composition or characteristics is a hazardous material, including hazardous or toxic substances, hazardous waste, petroleum products

(including crude oil or any fraction thereof), natural gas, natural gas liquids, asbestos, polychlorinated biphenyls and any chemicals known to cause cancer or reproductive toxicity or has hazardous constituents, defined or regulated as such in or under any and all Applicable Laws, regulating, relating to or imposing liability or standards of conduct concerning the protection of human health, industrial hygiene or the environment, and the regulations thereunder.

"*Import Taxes*" means taxes, customs duties, fees, imposts, value added tax, sales tax and governmental charges of any kind, in each case that are payable upon or in relation to the importation of equipment, drawings or designs into the United States or the transfer or sale of same to Owner (other than sales or use taxes imposed on the transfer or sale of such property by any state or local Governmental Authority in the United States).

"*Indemnified Person*" has the meaning set forth in Section 10.3 hereof.

"*Indemnitor*" has the meaning set forth in Section 10.3 hereof.

"*Lien*" means any claim, lien, charge, security interest or encumbrance upon the Project Site, the Services or any part of, or interest in, any thereof (including, without limitation, the funds, real property or personal property of Contractor) which Contractor or any of its subcontractors or Contractor Staff may have or to which it or they may hereafter be entitled.

"*Milestone Schedule*" means the schedule for performance of Services under the Order Document as specified therein.

"*Order Document*" has the meaning set forth in Section 2.1 hereof.

"*Party*" and "*Parties*" have the meanings set forth in the preamble hereof.

"*Permits*" means a waiver, exemption, variance, certificate, franchise, permit, authorization, license or similar order of or from, or filing or registration with, or notice to, any Governmental Authority having jurisdiction over the matter in question.

"*Person*" means any individual, corporation, partnership, limited liability company, association, joint stock company, trust, unincorporated organization, joint venture, government or political subdivision or agency thereof.

"*Project*" means the Services released via an Order Document as set forth in Section 2.1 hereof.

"*Project Site*" means the site of the Project, located at 1866 River Road Middletown, CT 06457, which shall be more specifically defined in an Order Document

"*Required Completion Date*" means, with respect to Services covered by an Order Document, the date for completion of such Services as required by such Order Document. If the Order Document does not specify a Required Completion Date, the Required Completion Date shall be the date on which the applicable Service is contemplated to be performed and completed in accordance with the Order Document.

"*Services*" has the meaning set forth in Section 2.1(a) hereof.

"*Taxes*" means any and all forms of taxation, charges, duties, imposts, fees, levies and rates whenever imposed by the United States or elsewhere, including without limitation, income tax, withholding taxes, corporation tax, capital gains tax, capital transfer tax, inheritance tax, rates, water rates, value added tax, customs duties, capital duty, excise duties, betterment levy, community charges, development land tax, stamp duty, stamp duty reserve tax, national insurance, governmental charges, social security or other similar contributions, and generally any tax, duty, impost, levy or rate or other amount and any interest, penalty or fine in connection therewith.

"*Third Party Servicers*" has the meaning set forth in Section 2.2 hereof.

"*Third Party Warranties*" has the meaning set forth in Section 5.5(f) hereof.

"*Warranties*" has the meaning set forth in Section 5.1 hereof.

"*Warranty Period*" means the period commencing on the Final Completion Date and continuing until the 18th month anniversary thereof.

"*Warranty Service*" has the meaning set forth in Section 5.5(a) hereof.

"*Work Product*" has the meaning set forth in Section 12.1 hereof.

1.2 Rules of Interpretation. References to sections herein include all subsections subsidiary to the section referred to. Section headings herein have been inserted for convenience of reference only, are not a part of this Agreement and shall not be used in construing this Agreement. Unless the context of this Agreement otherwise requires (a) words using singular or plural number also include the plural or singular number, respectively, (b) this Agreement includes all appendices attached hereto, all of which are incorporated herein by this reference, (c) the terms "hereof," "herein," "hereby" and derivative or similar words refer to the entire Agreement, including schedules and attachments hereto (to the extent applicable), (d) the masculine gender shall include the feminine and neuter, (e) references to persons shall include natural persons, corporations, partnerships, limited liability companies, unincorporated associations and similar entities and bodies, (f) any reference to a law, an agreement or a document shall be deemed to also refer to any amendment, supplement or replacement thereof and (g) whenever this Agreement refers to a number of days, such number shall refer to calendar days unless such reference specifies business days. Terms defined in this Agreement by reference to any other agreement, document or instrument shall have the meanings assigned to them in such agreement, document or instrument whether or not such agreement, document or instrument is then in effect. If there is any apparent conflict or inconsistency between the provisions set forth in this Agreement, and the provisions set forth in any schedule, exhibit or other attachment, to the extent possible such provisions will be interpreted in a manner so as to make them consistent. If it is not possible to interpret such provisions consistently, the following order of precedence in the interpretation hereof and resolution of such conflict shall prevail: (A) duly authorized and executed Change Orders, (B) Order Documents, (C) written amendments to this Agreement, (D) this Agreement, (E) the Schedules and other attachments hereto and (F) drawings produced and delivered pursuant hereto (in respect of which precedence shall be given to drawings of a larger scale over those of smaller scale, figured dimensions shall control over scaled dimensions and noted materials shall control over undimensioned graphics indications. The Parties agree that the terms and language of this Agreement were the result of negotiations between the Parties and their respective advisors and, as a result, there shall be no presumption that any ambiguities in this Agreement shall be resolved against any Party. Any controversy over construction of this Agreement shall be decided without regard to events of authorship or negotiation.

## 2. Services.

2.1 Appointment. Owner hereby engages Contractor, and Contractor hereby agrees, to render to the best of its ability the Services for Owner and its affiliates upon the terms and conditions hereinafter set forth. While Contractor shall control the detail, manner and method of performing the Services, it is understood that Contractor shall report directly to Owner Representative, as identified in either a purchase order in a format similar to the sample template shown in Exhibit 1 or a task order in a format similar to the sample template shown in Exhibit 2 which shall be executed by Owner (each, an "*Order Document*"), and all Services performed under this Agreement shall be subject to inspection by and approval of Owner.

(a) Order Documents and Services. Contractor agrees to perform the services described in each Order Document (as to each Order Document, the "*Services*") entered into and executed by the Parties from time to time. Contractor and Owner may enter into and execute more than one (1) Order Document under this Agreement. Each Order Document shall be separately numbered and each Order Document is

hereby incorporated as if fully set forth herein. Each Order Document shall be subject to all of the terms and conditions of this Agreement, unless expressly provided otherwise in the Order Document. Contractor shall not perform any Services prior to execution of an Order Document by Contractor and Owner, and Owner shall not be liable to Contractor for the amounts due with respect to work performed by Contractor unless subject to a fully executed Order Document.

(b) Performance. Contractor shall perform the Services for Owner (i) in accordance with the time schedule set forth in the applicable Order Document or Change Order and (ii) at the Project Site. Contractor shall keep Owner reasonably informed of the progress of Contractor's performance of the Services.

(c) Compliance with Applicable Policies. The performance by Contractor of the Services will be subject to such policies, procedures, rules and regulations as Owner may establish from time to time.

2.2 Non-Exclusivity. Contractor acknowledges that (a) Owner may use third parties through outsourcing and otherwise ("*Third Party Servicers*") to provide various types of services including, without limitation, the types of services provided by Contractor and (b) nothing in this Agreement shall be deemed to grant Contractor the exclusive right to provide any of the Services. Contractor agrees to cooperate with each such Third Party Servicers to the same extent as Contractor is obligated to cooperate with Owner hereunder.

2.3 Change Orders.

(a) Owner's Right to Request Changes and Extra Services. Owner may at any time propose in writing to Contractor changes to or clarifications of an Order Document. Owner's submission of proposed changes or clarifications pursuant to this Section 2.3(a) shall not be construed as an acknowledgment or admission that such items are outside of the scope of this Agreement or require Change Orders hereunder. If Contractor believes that any such proposed changes to or clarifications of an Order Document causes a material increase or decrease in components of the Compensation Terms, or a material change to the term, Milestone Schedule or Required Completion Date, then Contractor shall provide Owner with a written notice as soon as reasonably practicable after receipt of Owner's proposed changes or clarifications in light of the scope of the requested changes or clarifications but in no event more than fifteen (15) days after receipt thereof. Such notice by Contractor shall contain (i) an explanation of Contractor's proposed changes to the Contract Price, including a reasonably detailed breakdown of the components of the Contract Price affected by such change (in accordance with the change order pricing stipulated in Schedule B, if applicable) and Contract Schedule and Milestone Progress Payment Schedule impacts per Schedule C (including a reasonably detailed breakdown of the matters affecting such changes) together with such estimates, calculations, and data as may be reasonably required by Owner for Owner to evaluate such changes and/or clarifications and (ii) a draft Change Order necessary to comply with Owner's proposed changes or clarifications.

(b) Contractor's Right to Request Changes. Contractor may propose in writing to Owner changes to or clarifications of an Order Document; *provided*, *however*, that Contractor shall use best efforts to propose any such changes and/or clarifications that will affect Compensation Terms or the Milestone Schedule as soon as practicable after Contractor should reasonably be aware of the need for such changes or clarifications. Proposed changes to the Contract Price must be in accordance with the change order pricing stipulated in Schedule B.

(c) Confirmation of Change Order. If the Parties agree on any proposed changes to or clarifications of an Order Document pursuant to subsections (a) or (b) in this Section 2.3 and the effect of such change (if any) to the Compensation Terms and, as applicable, the term, Milestone Schedule, Required Completion Date or other terms, the Parties shall confirm such agreement in writing (a "*Change Order*"). In the event that the Parties are unable to agree on proposed changes to or clarifications of an Order Document, then Owner may, upon delivery to Contractor of written instruction (a "*Field Change Notice*"), provide any of the following instructions:

(i) Contractor shall continue to perform the Services as described in the Order Document and Contractor shall not be obligated to perform such Owner-proposed changes;

(ii) Contractor shall perform the Services pursuant to the Field Change Notice, and the Parties shall submit any dispute over the changes to and/or clarifications of the Compensation Terms or Milestone Schedule or whether any aspect of the Field Change Notice is within the scope of the Order Document or constitutes a Change Order for resolution pursuant to Section 20.2 hereof; or

(iii) Owner (A) may remove from such Order Document any Services affected by the proposed changes and/or clarifications, (B) award such removed Services to any third party of Owner's choosing, including, without limitation, subcontractor of Contractor (in which case Contractor shall co-operate fully with such third party regarding the transfer of such Services) and (C) shall be liable to Contractor for such portion of the Compensation Terms that relate to Services actually performed by Contractor before the effective date of termination.

(d) Performance Without a Change Order. If Contractor begins to perform work before full execution of the Change Order or an Order Document, Owner shall not be liable to Contractor for the amounts due with respect to the performance of any Services. Contractor hereby agrees and acknowledges that (i) any proposed changes to or clarifications of the Services pursuant to subsections (a) or (b) in this Section 2.3, unless confirmed in a Change Order or an Order Document, shall in no event serve as the basis for delayed completion of the Services hereunder and (ii) if applicable, Owner shall continue to be entitled to delay liquidated damages pursuant to Schedule E attached hereto in the event Contractor commits a breach of subsections (c) or (d) of this Section 2.3.

2.4 Term. The term of this Agreement shall commence on the Effective Date and shall remain in effect for 3-years or until terminated pursuant to the terms hereof. Each Order Document may specify the term of such Order Document.

2.5 Title; Risk of Loss.

(a) Title to the Services shall pass to Owner without the necessity of an instrument or other document evidencing such title (or if any such instrument or other document is required by Applicable Law, Contractor shall promptly, upon reasonable request therefor, deliver such instrument or other document to Owner) upon the earliest to occur of (i) payment by Owner therefor and (ii) if required by the Order Document or, if applicable, the delivery of a Final Completion Certificate to Owner. Contractor warrants and guarantees that, upon such transfer of title and ownership, Owner shall have good and marketable title to and ownership of the Services free and clear of any and all Liens created by Contractor or any of its subcontractors, employees, laborers, mechanics or materialmen of goods or services in connection herewith, except as expressly permitted by the Order Document.

(b) Notwithstanding passage of title as provided in Section 2.5(a) hereof, Contractor shall retain the risk of loss or damage for the Services, wherever located, until Owner's acknowledgment of Final Completion pursuant to Section 3.4 hereof.

## 3. Compensation and Payment.

3.1 Compensation Terms. As full and complete consideration to Contractor for the Services rendered hereunder, Owner agrees to pay Contractor in accordance with the compensation terms set forth in each Order Document (the "*Compensation Terms*"). The Compensation Terms are stated in United States Dollars and are not subject to adjustment for exchange rate fluctuations.

(a) If the Compensation Terms include a Milestone & Payment Schedule, Owner shall pay the applicable milestone payment within thirty (30) days after Owner's receipt of (i) an invoice (prepared pursuant to the requirements of this Section 3 in respect of the completion of the applicable milestone and (ii) supporting documentation sufficient, as solely determined by Owner, to enable Owner to determine

whether such milestone has occurred; *provided*, *however*, that Owner does not dispute whether such milestone has been completed; *provided*, *further*, that payment by Owner for the final milestone shall also require Owner's countersigning of a Final Completion Certificate in respect of such Order Document pursuant to Section 3.4 hereof.

(b) If the Compensation Terms do not include a milestone payment schedule, all compensation to Contractor shall be due within thirty (30) days after Owner's countersigning of a Final Completion Certificate in respect of such Order Document (pursuant to Section 3.4 hereof) and Owner's receipt of an invoice therefor in accordance with the remainder of this Section 3. No partial or milestone payment by Owner shall constitute acceptance of the Services or a waiver of any of Owner's rights provided under New York law. The compensation paid pursuant to the Compensation Terms shall not be increased for any reason except as otherwise specifically provided in a Change Order.

3.2 Sole Compensation. The Compensation Terms set forth in each Order Document shall be the entire compensation to which Contractor shall be entitled for the Services covered by such Order Document and shall be inclusive of all Import Taxes, fees, royalties, license charges, ordinary and extra-ordinary overhead, storage, personnel and out-of-pocket expenses incurred by Contractor, including any taxes, employment benefits and social benefits resulting from or attributable to compensation paid hereunder. Furthermore, Contractor shall not be entitled to, and shall have no claim under this Agreement or otherwise against Owner for, any so-called fringe benefits, including (without limitation) paid vacation, health insurance, life insurance, long-term disability insurance, reimbursement of professional society dues, participation in stock option, profit sharing or pension plans, paid sick leave, family leave or professional liability insurance.

3.3 Invoices. Contractor shall prepare all invoices for the Services in accordance with the requirements of Appendix I (Invoicing Requirements) attached hereto, which Owner may, at its sole discretion, amend or supplement from time to time. Furthermore, Contractor shall submit to Owner such time records as Owner may request from time to time showing in sufficient detail the nature of the Services performed by Contractor and the time Contractor actually spent performing such Services.

3.4 Inspection and Acceptance. When Contractor believes that it has achieved Final Completion of the Services in an Order Document, it shall deliver to Owner a Final Completion Certificate (a form of which is attached hereto as Schedule F) together with supporting documentation sufficient, as determined solely by Owner, to enable Owner to determine whether Final Completion has been achieved. If, within fifteen (15) days after Owner receives such Final Completion Certificate, Contractor receives a written notice from Owner rejecting such Final Completion Certificate, Contractor shall have a period of ten (10) days to review the reasons set forth in Owner's notice and shall promptly take such action, including the performance of additional services, to ensure that Contractor achieves Final Completion. Final Completion shall not be deemed to have been achieved until acknowledged by Owner by countersigning the Final Completion Certificate (the "*Final Completion Date*"). Any disputes about whether Final Completion has been achieved shall be referred to resolution pursuant to Section 20.2 hereof. The submission of a Final Completion Certificate shall constitute a representation and warranty by Contractor that all amounts due sub-vendors, laborers, materialmen and others (a) for work included in the payment request, except for retainages specified herein, have been or will be paid promptly upon receipt of payment for which such Final Completion Certificate has been made (by application of funds so received) and (b) for the Services covered by Final Completion Certificates previously submitted have been paid except for permitted retainages.

3.5 Set-Offs. Any payments owing at any time from Owner to Contractor may, at Owner's election, be subject to deductions for loss, damage, cost or expense for which Contractor may be liable, or for previous statements not subsequently supported by proper documentation (as determined solely by Owner). Any amounts owing at any time from Contractor to Owner may be set-off against amounts due and payable pursuant hereto by Owner to Contractor for its own account Contractor is not entitled to any right of set-off whatsoever.

**4. Audit and Inspection.**

4.1 Billing Audit. During the term of this Agreement and for two (2) years thereafter, upon delivery of a written request by Owner, Contractor shall provide, and shall cause its subcontractors to provide, access during normal business hours to Contractor's supporting documentation, personnel and system to Owner (or any agent designated by Owner) for the purpose of verifying Contractor's invoices and compliance with the confidentiality provisions of this Agreement. Contractor shall provide, and shall cause its subcontractors to provide, any assistance that Owner may reasonably require. Such audit shall be at Owner's expense unless such audit reveals (i) that any invoice subject to such audit contains an error in an amount equal to or greater than five-percent (5%) of the amount invoiced thereunder or (ii) Contractor has not been in compliance with the confidentiality provisions of this Agreement. In addition, if any audit results in Contractor being notified that it or its subcontractors are not in compliance with any law relating to the Services provided hereunder, Contractor shall, and shall cause its subcontractors, to promptly take actions to comply with such audit.

4.2 Inspection. During the Term, Owner shall have the right, upon reasonable notice to Contractor and during normal business hours, to inspect and audit Contractor's facilities to ensure that the Project Site comply, and the Services are performed in compliance with, all applicable laws and regulations and the provisions of this Agreement and the applicable Order Document.

**5. Warranties and Liquidated Damages.**

5.1 Basic Warranty. Contractor warrants and guarantees that (each of the following, together with any Additional Warranties, collectively, the "*Warranties*"):

(a) For the Warranty Period, the Services shall be (i) of good quality, free from faults and defects and in conformance with the Contract Documents, (ii) that the Services of all materials and equipment will be in strict accordance with manufacturer's requirements and (iii) in compliance with any specifications and the other requirements of this Agreement and Order Document, including any Change Orders.

(b) For the Warranty Period, no Applicable Laws have been violated in the performance of the Services, the violation of which could have a material adverse effect on Owner.

(c) Legal title to and ownership of the Services shall be merchantable and free and clear of any and all Liens as of the earlier to occur of (i) payment by Owner therefor and (ii) if required by the Order Document or if applicable, the delivery of a Final Completion Certificate to Owner.

5.2 Additional Warranties. Contractor also agrees to provide Owner or its designee, at no cost to Owner or its designee, with the additional warranties and performance guarantees set forth in Schedule E (Additional Warranties & Performance Guarantees) attached hereto.

5.3 Original Work. All work under this Agreement shall be Contractor's original work, and none of the Services or inventions or any development, use, production, distribution or exploitation thereof will infringe, misappropriate or violate any intellectual property or other right of any person or entity or breach or violate agreements to which Contractor or any of if its personnel are subject.

5.4 Warranty Conditions. The Warranties shall be subject to the following conditions:

(a) Contractor shall not be liable under the Warranties for ordinary wear and tear experienced by equipment subject to the Services.

(b) No claim of any kind under this Section 5 may be prosecuted at any time after one (1) year after the end of the Warranty Period.

5.5 Remedies for Defects and Deficiencies.

(a) General Remedies for Defects. Contractor shall, after discovery of any Defect in the Services or any part thereof (or after notice thereof by Owner (which notice shall include a description of the perceived problem)), at Contractor's sole cost and expense (including the cost of labor and equipment), promptly correct or re-perform all such Defective Services and correct the problem giving rise to the breach at no charge or cost to Owner (the "*Warranty Service*"). The Warranties with respect to any Warranty Service after Final Completion shall extend the then-scheduled expiration of the Warranty Period applicable to such Service. Contractor may use rebuilt parts in connection with Warranty Service upon the written approval from Owner which will not be unreasonably withheld, provided Contractor can demonstrate to Owner's satisfaction that such rebuilt parts are of the same quality and durability as new parts. Owner shall provide Contractor such additional information with regard to any perceived Defect, operating problem or proposed repair as Contractor may reasonably request, if available, but failure to so provide shall not affect Contractor's obligations hereunder.

(b) Clean Up. Contractor shall properly and completely clean all equipment, components or surrounding areas which become oily or otherwise unclean as a result of any breach of this Agreement, Order Document or any Services in connection therewith.

(c) Conformance of Warranty Service to Specifications. Contractor warrants in favor of Owner that all Warranty Service, including (i) correction or re-performance of the Services and (ii) materials incorporated into any equipment as part of the Services or any subcontractor shall (A) conform to the requirements of this Agreement or Order Document and all applicable warranties for the foregoing and (B) be free from Defects in materials and workmanship until the expiration of the Repair Warranty Period.

(d) Warranty Service at Contractor's Cost; Survival. Contractor shall perform all Warranty Service at its own cost and expense. Contractor's obligation to correct or re-perform Defective Services pursuant to this Section 5.4 shall survive the termination or expiration of this Agreement, and Contractor shall not be excused from performing such Warranty Service after the end of the Warranty Period, if it receives notice of the Defect at any time before, during or within thirty (30) days after the Warranty Period.

(e) Delay. If, after notification of a Defect in workmanship, Contractor shall unreasonably delay in commencing, continuing or completing Warranty Service with respect to such Defect in the time required therefor under this Section 5.5, Owner may correct such Defect in accordance with this Agreement, and Contractor shall be liable for all reasonable direct costs, charges and expenses incurred by Owner in connection with such correction or re-performance and shall forthwith pay to Owner an amount equal to such costs, charges and expenses upon receipt of invoices with supporting documentation certified by Owner. Nothing herein shall in any way limit or relieve Contractor of its obligations under this Section 5.

(f) Third Party Warranties. Contractor shall be responsible for enforcing the warranties of all subcontractors ("*Third Party Warranties*") through the Warranty Period. Any Third Party Warranties that are still in existence at the end of the Warranty Period automatically shall be assigned on such date to Owner, to the extent assignable. Contractor shall provide reasonable assistance to Owner without cost to Contractor in connection with the enforcement by Owner of any Third Party Warranty after such assignment. If the stated term of any of such Third Party Warranty is less than the term of Contractor's Warranties provided by this Section 5, the term of Contractor's Warranties shall not be diminished thereby.

5.6 Liquidated Damages. Contractor agrees to pay Owner the liquidated damages if and when required by the provisions of Schedule E attached hereto.

5.7 Warranty Indemnification. Contractor shall indemnify Owner in accordance with the provisions set forth in Section 10 hereof in the event Contractor fails to repair or correct the deficiencies in the Services in accordance with the provisions of this Section 5.

## 6. Covenants of Contractor.

6.1 General Covenants. Contractor covenants that:

(a) Permits and Authorizations. Contractor will maintain all governmental consents, Permits, licenses and other authorizations and consents necessary to perform the Services;

(b) Best Efforts. The Services shall be provided in a good and workmanlike manner, performed by Contractor using Contractor's best efforts and will be delivered in a prompt, efficient and accurate manner; and

(c) Codes and Standards. Contractor shall perform the Services in accordance with all applicable engineering, construction and other codes and standards, in accordance with prudent electrical utility standards, and in accordance with the terms of this Agreement and any amended or supplemented Order Document, all with the degree of high professional skill normally exercised by or expected from recognized professional firms engaged in the practice of supplying the services of a nature similar to the Services.

6.2 Employment Requirements. Contractor agrees, and must contractually obligate its subcontractors (Contractors and each subcontractor may be referred to in this Agreement individually as an "*Employer*" and collectively as the "*Employers*") to agree, that with respect to the provision of the Services the following requirements apply:

(a) No Discrimination. No Employer may discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income. Each Employer must take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State setting forth the provisions of this nondiscrimination clause. In addition, each Employer, in all solicitations or advertisements for employees, must state that all qualified applicants will receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income;

(b) Equal Employment Opportunity. Contractor, in order to demonstrate compliance with the terms of this Section 6, must cooperate with and promptly and accurately respond to inquiries about compliance with equal employment opportunity regulations of federal, state and municipal agencies; and

(c) Incorporation into Subcontracts. Each Employer must include the foregoing provisions of Sections 6.2(a) and 6.2(b) above in every contract entered into in connection with the performance of Services, and must require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any affiliate performing the Services so that each such provision will be binding upon each contractor or subcontractor as the case may be.

6.3 Contractor Personnel.

(a) Contractor Staff. Contractor shall appoint and manage qualified individuals (including, without limitation, its employees, contractors, subcontractors and agents (collectively, the "*Contractor Staff*") with the training, experience and ability, as well as the adequate supervision, required to perform the Services in accordance with the standards set forth in Section 6 hereof and the other requirements of this Agreement and the Order Document.

(b) Dismissal and Reassignment. Contractor shall promptly notify Owner in writing after dismissing or reassigning any of the management-level Contractor Staff who normally provides Service to Owner. From time to time, Contractor shall provide Owner with a written schedule of appropriate members of Contractor

Staff who are serving as "on-call representatives" that will respond to and address problems with the service as and when required by this Agreement. Such schedule shall include the names, cellular telephone numbers, email addresses and/or pager numbers and other contact information for such on-call representatives and the primary and secondary representatives that are "on-call" for designated periods during the working hours.

(c) Assignment of Duties. Contractor agrees to provide sufficient numbers of Contractor Staff necessary to perform the Services in accordance with the terms and conditions set forth hereof. Owner shall have the right to reasonably accept or reject those Contractor Staff assigned to Owner to perform the Services. To the extent that Owner reasonably deems the work of any Contractor Staff member unsatisfactory, Contractor shall make reasonable effort to re-assign other Contractor Staff employees to Owner for performance of the Services.

(d) Conduct and Enforcement. Contractor Staff shall at all times (i) comply with policies, requests, rules and regulations of Owner regarding personal and professional conduct (including, without limitation, the wearing of an identification badge and adhering to regulations and general safety, security and non-discrimination policies, practices or procedures) set forth herein and generally applicable to such location and (ii) otherwise conduct themselves in a businesslike and professional manner. If Owner determines in good faith that a particular Contractor Staff member is not conducting himself or herself in accordance with this Section, Owner may provide Contractor with notice and documentation in respect of such conduct. Upon receipt of such notice, Contractor shall, at no cost to Owner, promptly investigate the matter and take such action, if any, as it determines in good faith to be appropriate, which may include promptly (A) removing such member from Contractor Staff, (B) providing Owner with notice of such removal and (C) replacing such member with a qualified individual.

(e) Delegation and Subcontracting. Upon prior written consent from Owner, Contractor shall be entitled to delegate or subcontract the whole or any part of its functions, powers, discretions and duties hereunder or any of them to any third party. The consent of Owner to any subcontracting shall not relieve Contractor of its responsibility for the performance of its obligations under this Agreement. Contractor shall be responsible for, and guarantee the performance of, the work and activities of each of its subcontractors as if Contractor itself had performed such Services, including compliance with the terms of this Agreement. Contractor shall require all subcontractors performing any Services to maintain or be covered by insurance with the same kinds of coverage and policy limits as set forth in Section 7 hereof. Contractor shall be solely responsible for all payments to its subcontractors.

(f) Prohibition and Violations. Contractor agrees to advise its employees and the employees of its subcontractors and agents that it is the policy of Owner that (i) the use, possession or distribution of illegal or unauthorized drugs, drug-related paraphernalia or weapons on Owner's premises is prohibited and the use or possession of alcoholic beverages is also prohibited and (ii) any person who is found in violation of the policy may be removed and barred from Owner's premises, at the direction of Owner.

(g) Subcontractor Obligations. The subcontracting of any Services to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Services. Unless otherwise agreed in writing by Owner, Contractor shall require all subcontractors performing any Services to maintain or be covered by insurance with the same kinds or coverage and policy limits as required of Contractor in this Agreement. Contractor shall indemnify and hold Owner harmless from any and all Claims arising out of Services performed by any subcontractor for Contractor to the same extent as if Contractor had itself performed such Services.

## 7. Insurance Coverage Requirements.

7.1 Insurance Coverage. At all times while any Order Document is outstanding, Contractor shall maintain the insurance in accordance with the terms set forth on Appendix II (Insurance Coverages) attached hereto with minimum limits as indicated (which may also be revised to reasonable amounts consistent with similar industry practice at Owner's sole discretion from time to time) for so long as required by Section 7.3 below. Upon request, Contractor shall provide to Owner copies of such policies.

7.2 Insurance Certificates.

(a) Contractor shall furnish Owner with duly executed certificates of insurance evidencing the insurance coverage requirements described in Appendix II attached hereto and certifying that such insurance has been provided and that the insurance companies will give Owner thirty (30) days prior written notice of any material change in, or cancellation of, such insurance coverage the earlier of (i) ten (10) days after the Effective Date or (ii) prior to the delivery of the Equipment or start of performance of any applicable Installation Services. Such certificate shall also specify the dates when such insurance commences and expires. Certificates should be delivered to Owner at its address for notices hereunder.

(b) New certificates shall be provided to Owner within two (2) weeks of the renewal date of any expiring insurance coverage giving evidence of continuing coverage subject to Owner's withholding of any payments due Contractor until such certificates are received.

7.3 Time Period Required to Maintain Insurance. Contractor shall maintain the insurance required hereunder until the Final Completion Date or such longer period required pursuant to the remainder of this Section 7. Insurance policies of Contractor shall be on an occurrence basis. If any insurance is written on a "claims made" basis, Contractor shall maintain the coverage for a minimum of five (5) years after the termination of this Agreement. Owner may require Contractor to furnish copies of any "claims made" policies and to institute measures to guarantee further coverage for claims as contemplated by this Agreement.

7.4 No Waiver. Contractor agrees that regardless of whether Contractor provides a satisfactory or an unsatisfactory certificate of insurance pursuant to Section 7.2 (a) above, and regardless of whether Owner allows Contractor to perform the Services for Owner prior to Contractor's compliance with the requirements of this Section 7, Owner does not waive, and is not estopped from asserting against Contractor, any claim or claims for Contractor's breach of its obligations under this Section 7.

7.5 Compliance Required. It is expressly acknowledged, understood and agreed that no payment shall be due from Owner to Contractor under this Agreement at any time when, or for the Services performed when, Contractor is not in full compliance with this Section 7.

**8. Environmental Requirements.** Contractor agrees, and must contractually obligate its subcontractors to agree, to all of the environmental requirements set forth on Appendix III (Environmental Requirements) attached hereto.

**9. Safety and Health Requirements.** Contractor agrees, and must contractually obligate its subcontractors to agree, to all of the safety and health, protection of persons and property, notice of accidents and safety and interference requirements set forth on Appendix IV (Safety & Health Requirements) attached hereto.

**10. Indemnification.**

10.1 Indemnification by Owner. Owner shall indemnify, defend and hold harmless Contractor and its respective employees, partners, agents, principals, and subcontractors from Claims arising out of or resulting from (a) a breach by Owner of any of its obligations under this Agreement and (b) any gross negligence or willful misconduct of Owner or any of its affiliates, agents (excluding, for purposes of clarification, Contractor and any of its employees, partners, principals, subcontractors and agents), officers, directors or employees; except to the extent caused by Contractor's or Contractor Staff's fraud, negligence, willful misconduct, or a breach of Contractor's obligations hereunder. Owner's maximum liability under this Section 10 with regards to any Order Document shall be limited to the fee portions of Compensation Terms set forth in such Order Document.

10.2 Indemnification by Contractor. Contractor shall indemnify, defend and hold harmless Owner and its respective employees, partners, agents, principals, and subcontractors, from any and all Claims arising

out of or resulting from (a) any negligent act or willful misconduct or omission of Contractor or any Contractor Staff performing work pursuant to this Agreement, (b) any claim by a third party that the Services provided pursuant to this Agreement or any item furnished by Contractor hereunder infringe upon any patent, trademark, copyright, service mark, license, trade secret or other proprietary or intellectual property right of any third party, (c) any claims arising out of Contractor's subcontracting arrangements, (d) any breach by Contractor or any Contractor Staff of their obligations under this Agreement, (e) any violation by Contractor or any Contractor Staff of laws regarding the protection of members of a protected class or category of persons or sexual discrimination or harassment, (f) any failure of Contractor or any Contractor Staff, to comply with any federal, state, or local laws, rules, and regulations or (g) any actual or alleged death of or injury to any person, damage to any property, or any other damage or loss, by whomsoever suffered, resulting or claimed to result in whole or in part from the Services or products used or provided by Contractor or any Contractor Staff.

10.3 Indemnification Procedures. A Party with a Claim for indemnity under this Section 10 (in such capacity, the "*Indemnified Person*") shall promptly give notice of such claim to the other Party to this Agreement (the "*Indemnitor*") including a brief description of the amount and basis therefor, if known. Upon giving such notice, the Indemnitor shall be obligated to defend such Indemnified Person against such Claim, and shall be entitled to assume control of the defense of the Claim with counsel chosen by the Indemnitor, reasonably satisfactory to the Indemnified Person. The Indemnified Person shall cooperate fully with, and assist, the Indemnitor in its defense against such Claim in all reasonable respects. The Indemnitor shall keep the Indemnified Person fully apprised at all times as to the status of the defense. Notwithstanding the foregoing, if the Indemnitor controls the defense of the underlying claim, the Indemnified Person shall have the right to employ its own separate counsel in such claim, but the fees and expenses of such counsel shall be at the expense of the Indemnified Person; *provided*, *however*, that (a) if the Parties agree that it is advantageous to the defense for the Indemnified Person to employ its own counsel or (b) in the reasonable judgment of the Indemnified Person, based upon an opinion of independent, outside counsel selected by and provided to the Indemnified Person (subject to the written consent of the Indemnitor, which consent shall not be unreasonably withheld, delayed or conditioned), representation of both the Indemnitor and the Indemnified Person would be inappropriate under applicable standards of professional conduct due to actual or potential conflicts of interest between them, then the reasonable fees and expenses of the Indemnified Person's counsel for the underlying claim shall be paid by the Indemnitor, so long as the Indemnitor approves such counsel (which approval shall not be unreasonably withheld, delayed or conditioned). Neither the Indemnitor nor any Indemnified Person shall be liable for any settlement of any Claim affected without its written consent. Notwithstanding the foregoing, the Indemnified Person shall retain, assume, or reassume sole control over, all expenses relating to every aspect of the defense that it believes is not the subject of the indemnification provided for herein. Until both (i) the Indemnified Person receives written notice from the Indemnitor that it will defend and (ii) the Indemnitor assumes such defense, the Indemnified Person may, at any time after seven (7) days from the date written notice of claim is given to the Indemnitor by the Indemnified Person, resist or otherwise defend the Claim or, after consultation with and written consent of the Indemnitor, settle or otherwise compromise or pay the Claim. The Indemnitor shall pay the reasonable costs of the Indemnified Person arising out of or relating to that defense and any such settlement, compromise, or payment. Following indemnification as provided herein, the Indemnitor shall be subrogated to all rights of the Indemnified Person with respect to the matters for which indemnification has been made. The Indemnitor shall pay any reasonable costs incurred in enforcing the indemnifications granted herein.

## 11. Confidentiality.

11.1 Confidential Information. Owner expects to disclose to Contractor confidential information pursuant to the terms of this Agreement, including, without limitation, any specification, layout, design, appearance, know-how, sample product, trade secret, information, process, technique, algorithm, computer code, design, drawing, formula, test data related to any research project, work in progress, future development, engineering, manufacturing, marketing, servicing, financing or personnel matter relating to Owner, its present or future products, sales suppliers, clients, customers, employees and investors ("*Confidential Information*"). Such Confidential Information may be contained in or exist orally, in writing or in graphic or electronic formats and may or may not be designated or marked "confidential" or the like. During and after

the term of this Agreement, Contractor shall maintain the confidentiality of all such Confidential Information and shall not use the Confidential Information for any purpose other than in fulfillment of Contractor's obligations under this Agreement. Contractor shall execute similar confidentiality and non-disclosure agreements with all of its employees, partners, agents, principals and subcontractors of the other Party that may have access to Confidential Information and agrees to be responsible for any breach of this section by such employees, partners, principals and subcontractors.

11.2 Confidentiality Exceptions. Confidential Information shall not include any information that (a) is or becomes public knowledge through no act or omission of the receiving person, (b) is publicly disclosed by Owner, (c) is otherwise lawfully obtained from third parties after reasonable inquiry regarding their authority to possess and disclose same, (d) is independently developed by Contractor in a manner that can be shown not to have used the information received or (e) is known by Contractor as of the Effective Date other than by reason of discussions with or disclosures by the Parties in negotiating this Agreement.

11.3 Protection of Confidential Information. In the event that Contractor becomes legally compelled (by special deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process being conducted or ordered, as the case may be, by a legal authority having a competent jurisdiction over Contractor) to disclose any of the Confidential Information, Contractor shall provide Owner, to the extent practicable, with prompt prior written notice of such requirement so that it may seek a protective order or other appropriate remedy. Contractor agrees to cooperate with Owner's efforts to obtain any such order or other relief. In the event that such protective order or other remedy is not obtained, Contractor will furnish to such legal authority having a competent jurisdiction over Contractor only that portion of the Confidential Information which is legally required, and such disclosure will not result in any liability hereunder unless such disclosure was caused by, or resulted from, a previous disclosure that was not permitted by this Agreement.

11.4 Ownership; Return of Confidential Information. All documents, records, apparatus, equipment and other physical property, whether or not pertaining to Confidential Information, which are furnished to Contractor by Owner or are produced by Contractor in connection with this Agreement will be and remain the sole property of Owner. Contractor shall immediately return to Owner all such materials and property, including without limitation, tangible, electronic and audio copies and originals, as and when requested by Owner. In addition, Contractor will return all such materials and property immediately upon expiration or termination of this Agreement for any reason. Contractor will not take with it any such material or property or make or keep any copies, in hard-copy or audio or electronic format, thereof upon such termination.

11.5 Equitable Remedies. Contractor acknowledges and agrees that, in the event of a breach or threatened breach of this Section 11, Owner may have no adequate remedy in damages. Consequently, Contractor agrees that, in the event that it breaches or threatens to breach any of the covenants contained in this Section, Owner shall be entitled to both (a) a preliminary or permanent injunction without bond in order to prevent the continuation of such harm and (b) money damages insofar as they can be determined; *provided*, *however*, that no specification of a particular legal or equitable remedy shall be construed as a waiver, prohibition or limitation on a Owner's ability to pursue any other legal or equitable remedies, the Parties having agreed that all remedies shall be cumulative.

11.6 Notification of Breach. Contractor shall (a) promptly notify Owner in writing of any unauthorized possession, use, knowledge or disclosure, or attempt thereof, of any Confidential Information by Contractor, its Affiliates or Contractor Staff which may become known to Contractor, (b) promptly furnish to Owner full details of the unauthorized possession, use, knowledge or disclosure, or attempt thereof, and use reasonable efforts to assist Owner in investigating or preventing the reoccurrence of any unauthorized possession, use, knowledge or disclosure, or attempt thereof, of Confidential Information, (c) cooperate with Owner in any investigation of or litigation against third parties deemed necessary by Owner to protect its Confidential Information and (d) promptly enact policies and procedures to prevent a reoccurrence of any such unauthorized possession, use or knowledge of Confidential Information.

**12. Work for Hire.**

12.1 Work Product. Contractor acknowledges and agrees that all writings, reports, software, source codes, improvements, developments, discoveries, and any other works of authorship (each, a *"Work Product"*) produced or authored by or on behalf of Contractor and the Contractor Staff in the course of performing the Services, together with any copyrights thereon, are "works made for hire" and the sole property of Owner. To the extent that any Work Product may not, by operation of law, be works made for hire, this Agreement shall constitute an irrevocable assignment by the Contractor to Owner of the ownership of, and all rights of copyright in, such items, and Owner shall have the right to obtain and hold in its own name rights of copyright, copyright registrations and similar protections which may be available in the Work Product. Contractor agrees to give Owner or its designees all assistance reasonably required to perfect such rights.

12.2 Disclosure of Work Product; Protection of Intellectual Property. Contractor agrees to promptly disclose all Work Product to Owner and agrees to promptly execute any instruments and to do all other things reasonably requested by Owner (both during and after Contractor's engagement by Owner) in order to vest more fully in Owner all ownership rights in Work Product. Contractor shall have written confidentiality and assignment of intellectual property rights agreements in place with all members of the Contractor Staff who perform the Services so as to make this Agreement enforceable against such members of Contractor Staff. In the event Owner should not desire to copyright or patent any of said material and/or inventions but should desire to keep the same secret, Contractor agrees that he will do all in his power to assist Owner in this and will not disclose any such information except with the prior written consent of Owner.

12.3 Third Party Information. Contractor shall not, and Contractor shall instruct members of the Contractor Staff to not, during the term of performing Services hereunder for Owner, (a) make use of or incorporate confidential and/or proprietary information, including copyrighted or patented material, of third parties for which Owner does not already have express authorization or permission to use or (b) make use of or incorporate any proprietary and/or confidential materials of third parties into Work Product for Owner without the knowledge and written consent of Owner.

**13. Termination.**

13.1 Termination. The Order Document may contain termination provisions that apply to the termination of the Services described therein. In addition, this Agreement and/or any of the Services under any Order Document may be terminated as follows:

(a) Grounds for Immediate Termination by Owner. Owner may terminate this Agreement or any Order Document effective immediately upon issuance of a notice of termination if Contractor (i) breaches the confidentiality provisions of this Agreement in any material respect, (ii) is convicted of, or enters a plea of no contest to, a felony or any other criminal offense that may adversely affect Contractor's ability to perform any of Contractor's obligations under this Agreement or Owner otherwise reasonably believes that its association with Contractor may adversely impact Owner's name or reputation or (iii) experiences a Bankruptcy Event.

(b) By Owner Upon Contractor's Breach. Upon Contractor's material breach of any material representation, warranty or covenant contained herein or in any Order Document, which breach shall not have been cured within thirty (30) days following the delivery of written notice from Owner to Contractor describing such breach in reasonable detail, Owner may terminate only such Order Documents that are directly affected by such breach. In the event that Owner terminates an Order Document pursuant to this Section 13.1(b), the balance of this Agreement and Order Document shall remain in full force and effect. In the event that Owner terminates this Agreement pursuant to this Section 13.1(b), all Order Documents then in effect shall simultaneously terminate.

(c) Grounds for Immediate Termination by Contractor. Contractor may terminate this Agreement effective immediately upon issuance of a notice of termination if Owner (a) breaches the confidentiality provisions of this Agreement in any material respect or (b) experiences a Bankruptcy Event.

(d) By Contractor Upon Owner's Breach. Upon Owner's material breach of any material representation, warranty or covenant contained herein or Order Document, which breach shall not have been cured within sixty (60) days (or with respect to non-monetary breaches that are not reasonably capable of cure within sixty (60) days, or such longer period as is reasonably necessary to effect such cure, not to exceed one-hundred-eighty (180) days) following the delivery of written notice from Contractor to Owner describing such breach in reasonable detail, Contractor may terminate only such Order Documents that are directly affected by such breach. In the event that Contractor terminates an Order Document pursuant to this Section 13.1(d), the balance of this Agreement shall remain in full force and effect. In the event that Contractor terminates this Agreement pursuant to this Section 13.1(d), all Order Documents then in effect shall simultaneously terminate.

13.2 Termination Absence of Prejudice. The exercise by any Party of any rights under Section 13.1 shall be without prejudice to any other rights such Party may have at law or in equity, under this Agreement or otherwise, and shall not give rise to any rights or claims for compensation or consequential damages, including, without limitation, loss of profits, goodwill, or otherwise, by another Party or any third party. Termination of this Agreement or any Order Document shall not relieve the defaulting Party of its obligations, or from any liability, under this Agreement or such Order Document and shall not affect the rights of the Parties accrued prior to such termination.

13.3 Payments Upon Termination. If this Agreement is terminated pursuant to Section 13.1 hereof, upon the effective date of any such termination, each Party shall pay to the other Parties all undisputed compensation and expenses, if any, owed by such Party under this Agreement up to and including the date of termination.

13.4 Survival. The provisions of Sections 2, 3, 4, 5, 8, 10, 11, 12, 13, 14, 19, and 20 hereof and any provisions in the Schedules referenced thereunder in such Sections and the Parties' respective obligations thereunder shall survive any termination and assignment, if consented to, of this Agreement.

**14. Transition.** Upon notice of termination of this Agreement or any Order Document for any reason prior to the scheduled expiration of the term hereof, Contractor shall, at no additional cost to Owner, assist Owner in the orderly transition of the services provided to Owner pursuant to this Agreement if requested by Owner. Contractor shall make available all services as may be necessary for orderly, non-disrupted business continuation of Owner, including without limitation, preparation of a transition plan. Contractor shall be compensated at Contractor's then-current time and material rates for any additional resources required to execute the transition plan if Owner prior written approval for the use of such additional resources. Notwithstanding anything herein to the contrary, Owner shall have the right to immediately demand possession of all of its properties, including, without limitation, current copies of all Owner programs and necessary documentation, all files, intermediate materials and supplies in the possession of Contractor.

**15. Representations and Warranties.**

15.1 Mutual Representations. Each Party represents and warrants to the other Party, as of the Effective Date, that (a) this Agreement has been duly authorized and executed by such Party and constitutes a valid and legally binding obligation of such Party, enforceable in accordance with its terms, subject to and limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium and other laws generally applicable to creditors' rights and (ii) judicial discretion in the availability of equitable relief and (b) such Party has obtained all consents or authorizations and made all filings required for it to perform under this Agreement.

15.2 Additional Contractor Representations. Contractor further represents and warrants that (a) Contractor has all governmental consents, permits, licenses and other authorizations and consents necessary to perform the Services contemplated hereunder and (b) Contractor has full experience and proper qualifications to perform the Services.

**16. Time of the Essence.** The Parties acknowledge that the permitted time period for the performance of the Services has been purposely made long enough to allow for the ordinary and foreseeable delays incident to work of this character. Other than in the case of a force majeure event or any written changes

to Services described within any Order Document, no extension of time shall be given to Contractor for performance the Services.

**17. Force Majeure.** Notwithstanding Section 2.3 hereof and any applicable Change Order, each Party (a "*Delaying Party*") shall be entitled to an extension of time (but not, in the case of Contractor, to any additional compensation) for the actual number of days as other Party shall certify to be just for delays due to Force Majeure Events. The Delaying Party shall (i) within two (2) days after the occurrence of any Force Majeure Event causing a delay, notify the other Party in writing of the causes of such delay and the estimated delay to be caused thereby and (ii) use its best efforts to mitigate the effect of such delay and perform all of its obligations in accordance with the terms hereof. The right of a Delaying Party to receive an extension of time for any excused cause of delay is expressly conditioned upon receipt by the other Party of the notice herein required. Nothing hereunder shall entitle Contractor to an adjustment in the Contract Price or other compensation or expense reimbursement for performance under this Agreement.

**18. Independent Contractor Status.** Notwithstanding any provision hereof, for all purposes of this Agreement each Party shall be and act as an independent contractor and not as partner, joint venturer or agent of the other and shall not bind nor attempt to bind the other to any contract. Contractor is an independent contractor and not an employee of Owner and is solely responsible for all taxes, withholdings and other statutory or contractual obligations of any sort, including, but not limited to, Workers' Compensation Insurance.

**19. Notices.** All notices, requests and other communications required or permitted to be given to, or made upon, any Party hereto shall be in writing and shall be either (a) personally delivered, (b) sent by certified mail, (c) delivered by a nationally recognized overnight courier or (d) be sent by telecopy or facsimile (with a copy sent by first class mail (or equivalent method thereof)). The address for notices of each of the Parties hereto shall be as set forth on the signature pages to this Agreement. All notices, requests or other communications, including notice of change of address, shall be deemed to be received by the other Party (i) on the day of delivery if it is hand delivered, delivered by nationally recognized overnight courier or sent via telecopy or facsimile with a copy sent via first class mail (or its equivalent) or (ii) if by certified mail, five (5) business days after such mailing.

**20. Miscellaneous.**

20.1 Governing Law; Submission to Jurisdiction. This Agreement shall be governed and interpreted in accordance with, and the rights of the Parties shall be determined by, the laws of the State of New York, without application of principles of conflict of laws. The Parties (a) agree that the state or federal courts located within the Southern District of the State of New York shall have exclusive jurisdiction over any dispute arising out of this Agreement or any related agreements, and hereby agree to submit to personal jurisdiction of such courts and (b) irrevocably waive the right to trial by jury.

20.2 Dispute Resolution. Owner and Contractor shall use good faith efforts to resolve in an amicable way any dispute concerning the interpretation or the performance of this Agreement. Any dispute which cannot be resolved by the Parties hereto shall be resolved in accordance with Section 20.1 unless the Parties agree to arbitration or other alternative dispute resolution.

20.3 Severability. If any provision of this Agreement shall be declared invalid or illegal for any reason whatsoever, then notwithstanding such invalidity or illegality, the remaining terms and provisions of this Agreement shall remain in full force and effect in the same manner as if the invalid or illegal provision had not been contained herein. In the event that any provision of this Agreement is determined by any court of competent jurisdiction to be unenforceable by reason of excessive scope as to geographic, temporal or functional coverage, such provision will be deemed to extend only over the maximum geographic, temporal and functional scope as to which it may be enforceable.

20.4 Amendments; Entire Agreement; Waivers. No alteration or modification of this Agreement shall be valid unless made in writing and executed by each of the Parties hereto. This Agreement (including the schedules and appendices contained here within and incorporated herein by reference thereto) contains

the entire agreement among the Parties regarding the subject matter hereof and supersedes all other written or oral understandings thereon. No terms or conditions stated by Contractor in its bid or proposal, acknowledgement or other correspondence shall be binding upon Owner if different from or in addition to the express provisions of this Agreement. The failure of any Party to require the performance of any term or obligation of this Agreement, or the waiver by any Party of any breach of this Agreement, in any particular case will not prevent any subsequent enforcement of such term or obligation to be deemed a waiver of any separate or subsequent breach.

20.5 Counterparts. Agreement may be executed in two (2) or more counterparts, and each executed counterpart shall be considered an original.

20.6 Successors. This Agreement shall be binding upon and shall inure to the benefit of the Parties, representatives and, if consented to, their respective successors.

20.7 Assignment. This Agreement and the Services contemplated hereunder are personal to Contractor and it shall not have the right or ability to assign, transfer or subcontract any of its rights or obligations under this Agreement without the written consent of Owner. Any attempt by Contractor to assign this Agreement shall be null and void.

20.8 Further Action. Each Party hereto shall from time to time and at all times hereafter, at the request of the other Party hereto, but without further consideration, do all such further acts and execute and deliver all such further documents as shall be reasonably required in order to fully perform and carry out the terms hereof.

20.9 Publicity and Announcement. Contractor shall not issue any press release or public announcement relating to this Agreement or the transactions contemplated hereby without first obtaining the consent of Owner.

20.10 Relationship of the Parties. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, agency, or employment relationship between the Parties hereto nor shall either Party have the right, power, or authority to create any obligation or duty, express or implied, on behalf of the other Party.

20.11 Entire and Sole Agreement. This document, together with the schedules and appendices hereto, constitutes the complete and exclusive statement of the mutual understanding of the Parties with respect to its subject matter. This Agreement supersedes any and all prior or contemporaneous understandings, representations or other communication between the Parties of any sort, whether written or oral, with respect to its subject matter. No parol evidence shall be introduced or considered in any arbitral or judicial proceeding for purposes of clarifying or interpreting any provision of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the Effective Date.

**GENCONN MIDDLETOWN LLC**

By: Junnie Campbell 1/10/2024
Name: Junnie Campbell
Title: Director, Sourcing & Purchasing

Address for Notices:
Attn: Cornelius Daly
GenConn Middletown LLC
1866 River Road
Milford, CT 06461
Telephone: (203) 451-3683
Facsimile: (203) 783-6134Email:
cdaly@easterngen.com

**BASELOAD POWER**

By: 1/9/2024
Name: Richard Lowrance
Title: Managing Director

Address for Notices:
Attn: Richard Lowrance
Baseload Power Generation Parts and Services LLC
PO Box 10601
Corpus Christi, TX 78460
Telephone: **361-876-7751**
Facsimile:
Email: **Richard.lowrance@baseloadfirst.com**

## SCHEDULE B
## TIME AND MATERIAL PRICING SCHEDULE

The following Time & Material Rates and Mark-ups are to be used for either Reimbursable Time & Material Services, or approved changes to a Lump Sum Price as directed and authorized by Owner's Engineering representative.

### A) FIELD SERVICE (i.e. PROJECT MANAGER, SUPERVISION, ENGINEERING, ETC.) BILLING RATES

| List Applicable Position | Straight Time Rate | | Over-Time Rate (if applicable) | |
|---|---|---|---|---|
| | $ | Unit (i.e. Hour, Day, etc.) | $ | Per Hour |
| Senior Field Engineer | 185.00 | Hour | 277.50 | Hour |
| Field Engineer | 165.00 | Hour | 247.40 | Hour |
| | | | | |
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### B) CRAFT LABOR BILLING RATES

| Trade (i.e. Pipefitter, Millwright, Electrician, etc.) | Position (i.e. Foreman, Journeyman, Apprentice, etc.) | Local No. | Period 1 Billing Rate ($/Hour) | | | Period 2 Billing Rate ($/Hour) | | |
|---|---|---|---|---|---|---|---|---|
| | | | Effective Dates | Start | 1/1/2023 | Effective Dates | Start | |
| | | | | End | 12/31/2023 | | End | |
| | | | Straight Time | Time & 1/2 | Double Time | Straight Time | Time & 1/2 | Double Time |
| Technician | | | 145.00 | 217.50 | 290.00 | | | |
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CLARIFICATION NOTES FOR CRAFT LABOR BILLING RATE CALCULATIONS:

(1) List all the potential various Craft Labor Trades (i.e. Boilermaker, Pipefitter, Millwright, Electrician, etc.) and all of the various position levels (i.e. Foreman, Journeyman, Apprentice, etc.) of personnel proposed to be utilized on this Project, including all Apprentice Levels.

(2) STRAIGHT TIME BILLING RATE
The Billing Rate represents the amount that Contractor shall bill Owner for Owner-approved cost reimbursable Changes to the Scope of Work, or the amount used to calculate Owner-approved lump sum Changes to Scope of Work. The Billing Rate shall be calculated as follows:

**Billing Rate = Base W-2 Hourly Wage Rate * (1 + Overhead and Profit Mark-up %) + Fringes.**

Fringes shall be applied to the Base W-2 Hourly Wages indicated above. Fringes are ONLY those direct benefits payable and applicable to the specific personnel listed (i.e. FICA, FUTA, SUTA, Pension Fund, Vacation Fund, Annuity Fund, etc.). Note that for Billing Rates the Overhead and Profit Mark-up % shall be applied to the straight time Base W-2 Hourly Wage Rate portion only.

Note that the Overhead and Profit Mark-up % included in the Billing Rates shall include, but is not limited to the cost of Contractor's personnel not working directly in connection with Changes to Scope of Work, executive salaries, all bonuses, association dues and fees, depreciation on all Contractor equipment and assets, payroll processing costs, corporate taxes or fees, business development costs, all home office infrastructure costs, general administrative personnel costs, risk management costs, interest expense, all perquisites such as car allowances, home office rent, home office utilities, accounting personnel, legal personnel, recruiting costs (even if for placement on Project), and any items not directly incorporated into the Work. Overhead and Profit Mark-up shall include public liability insurance, property insurance, small tools and equipment typically used by the applicable trades having a maximum cost per item of $1,000.00, consumables, field overhead, home office overhead and profit. Overhead and Profit Mark-up on Materials and Equipment should be applied to the purchase of Materials and Equipment exclusive of sales taxes and shipping costs.

(3) OVERTIME BILLING RATE

The Overtime Billing Rate represents the amount that Contractor shall bill Owner for Owner-approved cost reimbursable Changes to Scope of Work or the amount used to calculate Owner-approved lump sum Changes to Scope of Work, for Changes to Scope of Work that cannot be performed during normal working hours. Overtime hours will be charged only if required by Changes to Scope of Work covered by an amendment to this Agreement, and fully approved in advance and in writing by Owner's Project Manager. The Premium Portion of the Base Wage Rate represents the amount directly paid to the trade labor in excess of the Base Wage Rate for performing Work outside normal working hours as specified in the applicable union agreements or required by labor laws. Contractor shall notify Owner of the trade specific Overtime policy that deciphers when Time & ½ or Double Time applies. The Overtime Billing Rate shall be calculated as follows:

**Overtime Billing Rate = [Billing Rate] + [Premium Portion of the Base Wage Rate] + [Overtime Fringes].**

## C) SUB-CONTRACTOR MARK-UP

| | Percentage (%) |
|---|---|
| Mark-up applied to 1st Tier Subcontractors charges | 15% |
| Mark-up applied to 2nd Tier Subcontractors charges | 15% |

**Note**: Mark-ups for Subcontractor will only be allowed for 2 tiers.

## D) MATERIAL MARK-UP

| | Percentage (%) |
|---|---|
| Mark-up applied to Materials | 15% |

**E) EQUIPMENT RENTAL RATES FOR CHANGES TO SCOPE OF WORK**

The following Rental Rates are to be used for Cost Reimbursable Changes to Scope of Work as directed and authorized by Owner's designated representative, for changes relating to the Construction of this Project. Owner's shall only reimbursed up to 70% of the Blue Book rate for Equipment Rental Rates utilized for Changes to the Scope of Work. No additional Mark-up shall be applied to these Equipment Rental Rates.

| | Equipment Rental Rates | | | |
|---|---|---|---|---|
| **Equipment Description** | **Daily** | **Weekly** | **Monthly** | **Mob./ Demob.** |
| None anticipated | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

CLARIFICATION NOTES FOR EQUIPMENT RENTAL RATES:

(1) Rental rates include all maintenance, fuel, upgrades and repairs.

(2) If it is found to be more economical for Owner to purchase a piece of equipment in lieu of renting it, the Contractor shall be responsible to make this recommendation to the designated representative in order to obtain approval to purchase this equipment. Any equipment purchased by Contractor and reimbursed by Owner shall become the property of, and turned over to, Owner upon completion of this project.

## APPENDIX I

## INVOICE REQUIREMENTS

**1.** Invoices should be issued to Owner in duplicate and shall include all of the following information on the face of the invoice:

(a) Contract or purchase order number;

(b) Contract/purchase order line item number and/or field job order number, if applicable;

(c) A brief description and list of Services completed, including equipment number;

(d) A brief description of the applicable milestone completed;

(e) A separate section for materials, including description of material, subcontractor's invoice number (when applicable), delivery ticket number, or other identification, quantities, prices and extension. Quantities should be billed in the same unit of measurement as the receipt;

(f) Clear indication of different mark-ups, if applicable, of the Services, grouped and sub-totaled;

(g) Sales Tax when applicable -- if sales tax does not apply to all items on the invoice, the tax base should be identified with sufficient breakout to verify applicability; and

(h) Total amount due.

**2.** Information contained on the face of the invoice is to be supported by attachments to the invoice as follows:

(a) Copies of timesheets for the hours covered by the invoice;

(b) Summary of equipment items and hours billed by period;

(c) Copies of subcontractor and rental equipment invoices, complete with description of the Services performed and itemized breakdown of billing;

(d) If agreed to in writing by Owner, copies of expense bills;

(e) Copies of certified weekly payrolls for the Services; and

(f) Contractor's Sworn Statement, Partial or Final Lien Waivers, as applicable.

**3.** All invoices shall be addressed as shown below:

GENCONN MIDDLETOWN LLC
ATTN: ACCOUNTS PAYABLE
1866 River Road
PO Box 1001
Milford, CT 06461
Email for Invoice: MIDGS.INVOICES@CAMSTEX.COM

## APPENDIX II

## INSURANCE COVERAGE REQUIREMENTS

**1. Workers' Compensation and Employer Liability** - Contractor and its subcontractors shall maintain worker's compensation and employer's liability insurance as required by New York state law as follows:

1.1 Worker's compensation liability amounts shall be no less than the minimum statutory amounts; and

1.2 Contractor's and its subcontractors' liability limits shall not be less than $1,000,000 per each accident for bodily injury by accident and $1,000,000 per each employee for bodily injury by disease.

1.3 Contractor shall maintain U.S. Longshoreman's and Harbor Worker's Act and Jones Act Insurance coverage when performing maritime-related work, including but not limited to work on any barges, if applicable.

**2. Commercial General Liability ("*CGL*")** - Contractor shall maintain commercial general liability insurance (or its equivalent satisfactory to Owner) with a total limit of not less than $1,000,000 per each occurrence as follows (if such CGL insurance contains a general aggregate limit, it shall apply separately to the Agreement):

2.1 CGL insurance shall be written on an occurrence form and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract);

2.2 Owner and its parent, subsidiaries, and Affiliates, Middletown Power LLC and Consolidated Asset Management Services LLC shall be included as an additional insured under the CGL insurance, using an ISO additional insured endorsement or a substitute providing equivalent coverage, and under the commercial umbrella or excess, if any. Such insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Owner. There shall be no endorsement or modification of the insurance to make it excess over other available insurance; alternatively, if such insurance states that it is excess or pro rata, the policy shall be endorsed to be the primary insurance with respect to the additional insured; and

2.3 There shall be no endorsement or modification of the insurance limiting the scope of coverage for liability arising from pollution or employment-related practices.

**3. Automobile Liability** - Contractor shall maintain automobile liability insurance (or its equivalent satisfactory to Owner) and, of not less than $1,000,000 per accident as follows:

3.1 Such insurance shall cover liability arising out of any automobile (including owned, hired and non-owned automobiles);

3.2 Owner and its parent, subsidiaries, and Affiliates, Middletown Power LLC and Consolidated Asset Management Services LLC shall be included as an additional insured using the current ISO endorsement or an equivalent form as described in Section 2.2 above; and

3.3 Contractor's insurance shall be primary with respect to Owner's insurance or self-insurance, and Contractor's policy shall not be written or endorsed contrary to this requirement.

**4. Professional Liability Insurance** - If performing Engineering or other related Professional Services relating to design, Contractor shall maintain professional liability insurance with annual limits of liability of not less than $2,000,000 per claim. The Contractor must maintain this insurance without

interruption for a period extending at least three years beyond the completion of the work performed by Contractor under this contract.

**5.** **Pollution Liability Insurance** - Contractor shall maintain pollution liability insurance (or its equivalent satisfactory to Owner) in accordance with the following:

5.1 Contractor shall maintain in full force and effect, at no cost to Owner for the period of the Agreement, insurance covering losses caused by pollution conditions that may arise from the operations of Contractor with respect to the Services;

5.2 Insurance as required in this Section 5 above shall apply to bodily injury, property damage, including loss of use of damage property or of property that has not been physically injured; cleanup costs and defense, including, without limitation, costs and expenses incurred in the investigation, defense or settlement of claims. The policy of insurance affording these required coverages shall be written in an amount of at least $1,000,000 per loss, with an annual aggregate of at least $2,000,000; and

5.3 If the Services as defined in the Agreement, Order Document or Order Change includes the disposal of any Hazardous or non-Hazardous Materials from the Project Site, Contractor must furnish to Owner evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting waste under the Agreement, Order Document or Order Change. Coverage certified to Owner under this Section 5.3 must be maintained in minimum amounts of $10,000,000 per loss, with an annual aggregate of at least $20,000,000.

**6.** **Umbrella Liability** - Contractor shall maintain Umbrella Liability Insurance in excess of Sections 1 - 5 above with limits of liability of not less than $4,000,000 per each occurrence.

**7.** **Waiver of Subrogation** – Contractor waives and shall cause its insurers to waive all rights of subrogation against Owner and its parent, subsidiaries, and Affiliates and Consolidated Asset Management Services LLC with respect to the policies required by this Appendix II.

## APPENDIX III

## ENVIRONMENTAL REQUIREMENTS

Contractor agrees, and must contractually obligate its subcontractors to agree, that with respect to the provision of the Services, all of the following requirements apply:

**1. Hazardous Materials.** Contractor shall not, nor shall it permit its subcontractor to, bring any Hazardous Materials on the Project Site (other than Hazardous Materials to be used by Contractor or its subcontractor in a manner that does not violate or require reporting or disclosure under, any environmental Applicable Law).

**2. Liability for Hazardous Materials.** Contractor shall bear all responsibility and liability for Hazardous Materials brought on the Project Site by Contractor, its affiliates and their respective employees, partners, agents, principals, and subcontractors that are brought on the Project Site in violation of this Section 2, until risk of loss for the Services in which Hazardous Materials are used passes to Owner under Section 2.5 of the Agreement.

**3. Use of Hazardous Materials.** Contractor shall minimize the use of Hazardous Materials in the performance of the Services, and shall not utilize, or permit or cause any Contractor Staff to utilize, such Hazardous Materials as are prohibited under Applicable Laws from being imported into or used in the United States. Contractor shall maintain an updated file of all material safety data sheets for all Hazardous Materials used in connection with the performance of the Services or at or near the Project Site and shall deliver an update of such file to Owner no more than ten (10) days after the end of each month. Contractor shall maintain an accurate record and current inventory of all Hazardous Materials used at or near the Project Site or at any construction area related to the Services, which record shall identify quantities, location of storage, use and final disposition of such Hazardous Materials.

**4. Hazardous Materials Handling Program.** Prior to the start of performing the Services, Contractor shall implement and administer a Hazardous Materials handling program for all of the Contractor Staff which shall include development of guidelines and training with respect to the proper handling, use and disposal of Hazardous Materials and the development, implementation and enforcement of procedures for notification of Owner and appropriate Governmental Authorities about, and clean up of, spills and other emissions of Hazardous Materials in connection with the Services.

**5. Removal and Disposal of Waste Materials, Unused Materials and Rubbish.** Upon completion of the Services, Contractor shall at all times remove from the Project Site all waste materials, unused materials and rubbish. As soon as practicable after completion of the Services, Contractor shall remove all of its equipment and materials and complete removal of all waste material and rubbish from and around the Project Site resulting from the performance of the Services and shall restore to original condition all public or private property (including public roads and highways and the Project Site's access roads) that have been damaged by Contractor, except for wear and tear normal for public roads and highways. All waste material and rubbish resulting from the performance of the Services shall be handled and disposed of by Contractor at its own expense in accordance with all Applicable Laws. Contractor shall provide to Owner all waste disposal manifests. Contractor's performance under this Section 5 shall not unreasonably interfere with the commercial operations of Owner.

**6. Permits and Policies.** All Services shall be planned and performed in accordance with applicable site environmental permits and policies and Services specific individual environmental permits as needed. Contractor will review and ensure their employees fully comply with all rules contained in the Owner's "Contractor Environmental Health & Safety Guidelines and Procedures Handbook."

**7. Minimizing Hazardous Materials; Alternative Materials.** Owner may require the use of alternative materials should review indicate that the specified materials conflict with site chemical use guidelines. In all cases, the use of Hazardous Materials and the generation of Hazardous Material wastes shall be minimized.

**8.** **Secondary Containment.** Contractor shall provide, in accordance with Owner guidance, for secondary containment for (a) areas of liquid Hazardous Material and petroleum product storage and (b) products contained in equipment where the potential threat of leakage is deemed to be of concern (as determined solely by Owner).

**9.** **Containment Runoff.** Adequate coverings of Services/storage areas subject to the effects of precipitation shall be securely applied to ensure that potential contaminant runoff is minimized.

**10.** **Environmental and Safety Inspection.** All Services/storage areas are subject to unannounced environmental/safety inspections by Owner personnel. If deemed necessary, the Services will be stopped pending correction of deficiencies and any additional Contractor costs resulting from such Services interruptions shall be the responsibility of Contractor.

**11.** **Additional Guidance.** Owner may provide, and Contractor shall fully comply with, additional guidance on the proper management and disposition of wastes generated.

## APPENDIX IV

## SAFETY & HEALTH REQUIREMENTS

**1. Security Procedures.** All personnel employed by each Employer must comply with Owner's security procedures regarding access to the Project Site, guardhouse procedures, parking rules, and personal identification badges.

**2. Work Environment.** Contractor shall provide and maintain, at its own expense, adequate, safe and sufficient walkways, platforms, barricades, warning lights, scaffolds, ladders, runways from concrete work, hoists, and all necessary and proper equipment. Contractor shall be solely responsible for any failure on such Contractor's part to comply with all Owner safety and health procedures, including (without limitation) those set forth in this Section 2.

**3. Site Safety Program.** Contractor shall have a comprehensive Site Safety Program, which shall be set forth in a written policy statement of Contractor:

(a) Contractor will review and ensure their employees fully comply with all rules contained in the Owner's "Contractor Environmental Health & Safety Guidelines and Procedures Handbook."

(b) The program shall establish and assign responsibilities for its implementation to a specific individual on Contractor Staff;

(c) Contractor shall submit a copy of its written policy statement to Owner prior to starting the Services;

(d) Prior to commence of the Services, Contractor shall also prepare and submit a job specific safety plan based upon careful review of federal, state, local laws, rules, and regulations on safety codes, which apply to construction activities necessary to complete the Services;

(e) Prior to commencement of the Services, a copy of the written policy statement and job specific safety statement, in a form reasonably acceptable to Owner, shall be submitted to Owner by Contractor; and

(f) Each Employer's employees must view Contractor safety and orientation video provided by Owner, if any, prior to beginning the Services. After viewing and discussing the video, Contractor employees must sign the video sign in sheet to verify that they have viewed and understand the information provided in the video.

**4. Accidents, Incidents, Injuries, Near Misses and Spills.** Work-related accidents, incidents, injuries, near misses and all oil or chemical spills must be immediately reported to the supervisor and the station emergency phone contact. Contractor's representative will also be contacted in the case of work-related accidents, incidents, or near misses. Contractor shall provide reports of any accidents and/or injuries to his or her employees to Owner with State of New York Workman's Compensation Board Form C-2, "Employer's Report of injury," for all compensation cases.

**5. Asbestos.** All unidentified or unmarked insulation is to be assumed to have asbestos until confirmed otherwise.

**6. Personal Protective Equipment.** All Project Site requirements for the proper use and wearing of personal protective equipment based upon location, exposure and work activity, shall be observed at all times during the Services. This personal protective equipment includes, but is not limited to:

(a) Hard hats;

(b) Safety glasses with permanent side shields;

(c) Ear plug or muffs;

(d) Steel toe safety shoes;

(e) Gloves; and

(f) Long sleeved, natural fiber shirts.

**7. Safety Program and Oversight.** Owner shall have the right to supplement any portion of Contractor's safety program that Owner deems deficient. If Owner provides any services or safety oversight that is the responsibility of Contractor or Owner believes, in its sole discretion, that it must provide additional owner's oversight, all costs incurred in connection with such oversight shall be payable by Contractor or offset against invoices due.

**8. Protection; Rules and Regulations; Reporting.** When Contractor's performance hereunder entails the presence of Contractor on Owner's premises for any purposes, Contractor shall ensure at all times that every reasonable precaution is taken to protect persons and property. Contractor shall, and shall cause any subcontractor and their respective agents, servants and employees, while on or about Owner's premises, to observe and comply with all fire, safety, hazard, "No Smoking," and other rules and regulations prescribed by Owner or legally in effect at the time. Contractor shall promptly report in writing to Owner all accidents whatsoever, arising out of or in conjunction with any performance of the Agreement on or adjacent to Owner's premises, which result in death, injury or property damage, giving full details and statements of witnesses. In addition, if death or serious injury or serious damage to property is caused, Contractor shall immediately orally report the incident to Owner.

**9. Liability to Third Parties.** If at any time or place a third party suffers personal injury (including death) or property damage for which Contractor or Contractor Staff is legally liable, no provision of the Agreement shall be construed as an agreement by which Owner to assume all or any part of such liability or, if Owner is named or joined in any legal action or proceeding in connection therewith, to preclude, prejudice or limit Owner's rights to receive indemnification or contribution from Contractor as set forth in Section 10 hereof.

**10. Minimum Interference; Owner Premises.** Contractor shall and shall cause the Contractor Staff to, perform the Services in such manner as to cause a minimum of interference with Owner's operations and the operations of Third Party Servicers on Owner's premises and to protect all persons and property thereon from damage or injury. Upon completion of the Services, Contractor shall, and shall cause the Contractor Staff to, leave the Owner's premises in which the Services were performed clean and free of all tools, equipment, waste materials and rubbish. Such Owner premises shall include the power plant areas, all buildings, offices, and other locations where Services are to be performed, including any access roads. Contractor shall be solely responsible for the safe transportation and packing in proper containers and storage of any equipment required for performing the Services, whether owned, leased or rented. Owner will not be responsible for any such equipment, which is lost, stolen or damaged, or for any additional rental charges for such equipment. Contractor equipment left or stored on Owner's premises, with or without permission, is done so at Contractor's sole risk. Owner may assume that Contractor has abandoned anything left on the Owner's premises for an unreasonable length of time after the Services has been completed, and such items, at Owner's option, shall be deemed to be the property of Owner. Any transportation furnished by Owner shall be solely as an accommodation and Owner shall have no liability therefore.

**EXHIBIT 1**
**SAMPLE TEMPLATE**



DEVON PO.pdf - Adobe Acrobat Standard DC
File Edit View Window Help
Home Tools Document 1 / 2 160% Sign In

## Devon Power LLC

**Purchase Order** 10004(DEVGS) **Sales Tax Status** Tax Exempt-ST-121

**OSISoft Devon Server, Software, Licenses**

| | | | |
|---|---|---|---|
| **Revision Number** | 1 | **Supplier** | OSISOFT LLC |
| All previous revisions are no longer valid. | | **Address** | PO Box 398687<br>SAN FRANCISCO CA<br>94139-8687<br>United States |
| **Order Date** | 12/02/2021 | | |
| **Purchase Order Due Date** | 12/02/2021 | | |
| | | **Telephone** | 5108779633 |
| | | **Fax No.** | 0000000000 |
| **Delivery Address** | Devon<br>734 Naugatuck Ave<br>Milford, CT | **Invoice Address** | Devon<br>734 Naugatuck Ave<br>Milford, CT |

**Service Line Items**

| Line | Task Plan | Due Date<br>Hours Requested | UOM | Quantity<br>Rate<br>Total Tax Amount | Total |
|---|---|---|---|---|---|
| 10 | IT Transitional Cost | 12/02/2021 | | 46,000.00 | USD |
| | | | | 0.00 | |

**WO - Act** 107470 - 10
**Req - Line** -

**EXHIBIT 2**

**SAMPLE TEMPLATE**

*[DIRECTIONS: PRIOR TO ISSUING THIS TASK ORDER TO CONTRACTOR FOR RELEASING SERVICES, CONFORM ALL THE LANGUAGE IN BLUE COLORED FONT AND BRACKETS TO MEET THE PROPOSED SCOPE OF SERVICES, INCLUDING REMOVE THIS NOTE, OTHER INSTRUCTIONAL NOTES, OPTIONAL SECTIONS OR OPTIONAL SCHEDULES BELOW NOT UTILIZIED.]*

**TASK ORDER NO.**
**[_<<Enter Requisition Number from Infor EAM system>>_]**
**UNDER MASTER SERVICES AGREEMENT WITH [__<<List Contractor Name>>__]**

This Task Order is entered into pursuant to the Master Services Agreement MGCP-2024-0626-CD (the "*Master Services Agreement*") dated as of [__<<Specify Master Services Agreement execution date>>__] between GENCONN MIDDLETOWN LLC, a Delaware Limited Liability Company ("*Owner*") and [__<<Specify Contractor>>__], a [__<<Specify type of entity and state of formation>>__] ("*Contractor*"). Capitalized terms used and not defined herein shall have the meanings set forth in the Master Services Agreement, unless the context requires otherwise.

1. **Services.** For purposes of this Task Order, the Services to be performed are as follows:

   - Contractor shall perform the Services in strict accordance with **Schedule A – Scope of Services** (attached), which is hereby incorporated by reference as if fully set forth herein.

   [<<OR>>]

   - [__<<Insert fully defined scope of work activities, including referencing Specification. If applicable, Insert any materials/tools/equipment to be furnished by Contractor >>__]

   [__<<Optional provision; delete this provision if not applicable>>__] Owner shall furnish to Contractor the items and/or services as listed in the attached **Schedule D - Owner Requirements** (attached), which is hereby incorporated by reference as if fully set forth herein.

2. **Term and Schedule.**

   [<<Need to describe schedule for work to be performed, including any milestones. Therefore, chose one of the following formulations>>]

   The term for performance of Services pursuant to this Task Order shall commence on [__<<Specify starting date>>__] and end on [__<<Specify ending date>>__].

   [<<OR>>]

   Contractor shall perform the Services pursuant to this Task Order in accordance with the **Schedule C – Contract Schedule & Milestone Progress Payment Schedule** (attached), which is hereby incorporated by reference as if fully set forth herein..

3. **Compensation Terms.** As full compensation for the Services pursuant to this Task Order, Owner shall pay to Contractor the amounts specified below in accordance with the payment timing specified below.

   **Part A—Payment Amount**

   [__<<Check one box only>>__]

☐ One Lump Sum Payment: Owner shall pay to Contractor a fee (the "*Fee*") of $[__<<SPECIFY WHETHER FOR THE PROJECT, PER MONTH, ETC.>>__] for the Services rendered by Contractor hereunder.

☐ Time and Materials Payment: Owner shall pay to Contractor a fee (the "Fee") based on time and materials fees in accordance with **Schedule B - Time & Material Pricing Schedule** of the Master Services Agreement.

**Part B—Payment Timing.**

All compensation due to Contractor hereunder will be paid in accordance with the invoicing, the attached **Schedule C – Contract Schedule & Milestone Progress Payment Schedule**, which is hereby incorporated by reference as if fully set forth herein, and other requirements set forth in Section 3 of the Agreement.

Invoices must reference a Purchase Order Number, which shall be issued upon full execution of the Task Order.

4. **Master Services Agreement.** This Task Order is hereby incorporated by reference into the Master Services Agreement and is hereby made subject to all of the terms and provisions of the Master Services Agreement.

5. **Owner Representative.** Owner Representative, for purposes of this Task Order, shall be:

<Name of Representative>
GenConn Middletown LLC
1866 River Road
Milford, CT 06461
<Tel: _____>
<Fax: _____>
<Email: _____>

6. [__<<Optional provision; delete this provision if not applicable>>__] **Additional Warranty or Performance Terms.** Contractor warrants to Owner the additional warranty performance terms in accordance with Schedule E - Additional Warranties & Performance Guarantees

| **GENCONN MIDDLETOWN LLC** | **BASELOAD POWER GENERATION PARTS & SERVICES, LLC** |
|---|---|
| By: _____ | By: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

DocuSign Envelope ID: 1A4E82C9-FC49-47E0-B366-8CB48B8A7678


[ <<Optional Schedule; delete if not applicable>> ]

**SCHEDULE A**

**SCOPE OF SERVICES**

Contractor shall furnish/perform:

- [<<describe Scope, and/or reference Specification(s), which is hereby incorporated by reference as if fully set forth herein,>>]

[ <<Optional Schedule; delete if not applicable>> ]

**SCHEDULE B**
**PRICING SCHEDULE**

**Scope of Work:**

**SECTION B-1: LUMP SUM PRICING**

**A) Breakdown of Lump Sum Price against pay items is as follows:**

| | | |
|---|---|---|
| A1. | Engineering: preparation of detailed drawings, material lists, and submittal of design drawings for Owner's review. | $ |
| A2. | Furnishing all necessary materials. and all off-site fabrication] | $ |
| A3. | Furnishing all off-site fabrication | $ |
| A4. | Furnishing all on site work including erection, installation of specified accessories, mobilization and demobilization | $ |
| A5. | | $ |
| | **TOTAL LUMP SUM PRICE:** | $ |

**B) ADD / DEDUCT PRICING against the Lump Sum Price listed above:**

We submit, for your consideration, the following alternates, suggestions, and substitutions with associated costs:

| | | | |
|---|---|---|---|
| B1. | | | ADD |
| B2. | | | ADD |
| B3. | | | ADD |
| B4. | | | ADD |
| B5. | | $ | ADD/DEDUCT |

**C) OPTION PRICING:**

| | | |
|---|---|---|
| C1. | Additional cost to secure a Payment and Performance bond | $ |
| C2. | **[list any Options Prices here and below as applicable]** | $ |
| C3. | | $ |
| C4. | | $ |
| C5. | | $ |

[ <<Optional Schedule; delete if not applicable>> ]

**SCHEDULE C**
**CONTRACT SCHEDULE & MILESTONE PROGRESS PAYMENT SCHEDULE**

## I. CONTRACT SCHEDULE

| Milestone | Completion Date |
|---|---|
| Mobilization Date: | [ <<insert date>> ] |
| Required Completion Date: | [ <<insert date>> ] |
| | |

## II. MILESTONE PROGRESS PAYMENT SCHEDULE

All compensation due to Contractor hereunder will be paid in accordance with the invoicing and other requirements set forth in Section 3 of the Agreement. Compensation due to Contractor hereunder will be paid in accordance with the following payment schedule and satisfaction of the requirements of Section 3 of the Agreement. Note that Milestones will only be deemed completed if all deliverables, including but not limited to, schedules, work plans, status reports, etc. are complete in accordance with the Agreement requirements:

| Milestone | Progress Payment Amount % |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

[ <<Optional Schedule; delete if not applicable>> ]

## SCHEDULE D
## OWNER REQUIREMENTS

**1. Owner-Supplied Items.** On or before the specified delivery date, Owner shall obtain the following items and make available such items available to Contractor in connection with its performance of the Services (collectively, the "*Owner-Supplied Items*"):

| Description of Item | Delivery Date |
|---|---|
| [Either list any permits, supplies, material or equipment Owner will provide to the Contractor related to the scope of services or mark "None"] | [__<<insert date>>__] |
| | |
| | |
| | |

**2. Owner-Supplied Services.** Owner shall provide, or arrange for provision of, the following services in connection with the performance of the Services (collectively, the "*Owner-Supplied Services*"):

| | Required by Contractor? (i.e. Yes or No) | If yes, indicate Location Needed in Owner Facility | If yes, indicate Specification (i.e. PSIG, amps, etc.) |
|---|---|---|---|
| **a)** Non-potable city water | | | |
| **b)** Drainage of waste water (see Note 1) | | | |
| **c)** Electricity for operation of electric power driven equipment, as follows (see Note 2): | | | |
| • 440V, 60 Cycle, 3 Phase | | | |
| • 208/120V, 60 Cycle, 3 Phase | | | |
| • 120 Volts | | | |
| **d)** Toilet, locker, and washroom facilities | | | |
| **e)** Telephone lines | | | |
| **f)** Field office(s) (see Note 3): | | | |
| **g)** Storage facilities (see Note 3): | | | |
| **h)** High speed interconnect connection | | | |

Note 1: Waste water must meet all commercial industrial waste requirements of the facility. Any waste that is not in conformance with the existing site discharge permits is the responsibility of the Contractor.

Note 2: The Contractor will provide all necessary wiring, conduit, ground protection, fuse boxes, and switches required to connect to electrical power being supplied per above. The Contractor shall use Ground Fault Interrupters (GFI) to power equipment all 120-Volt Hand Tools.

Note 3: Field office and storage facilities shall be maintained, by Contractor, in a clean, neat, and orderly fashion at all times.

Note 4: The Contractor shall make, maintain, and remove his own connections at the Owner's or other points of supply and also provide and maintain his own piping and/or wiring for all water, electric power, and other services required for his work. All such connections shall be made at points to be designated and approved by the Owner.

Note 5: Services provided by the Owner may be interrupted due to causes beyond the reasonable control of the Owner. The Owner shall incur no liability for such interruptions of service.

[ <<Optional Schedule; delete if not applicable>> ]

## SCHEDULE E

## ADDITIONAL WARRANTIES & PERFORMANCE GUARANTEES

**1. Additional Warranties and Performance Guarantees.**

[ <<This is an optional schedule. Mark "None" if it is not being used. If it is being used, the legal department should review all warranty or performance guarantee terms.>> ]

**2. Liquidated Damages.**

[ <<This is an optional schedule. Remove all text and mark "None" if it is not being used.>> ]

2.1. Schedule Delay. If Contractor's performance of any Milestone is not completed on or before the Required Delivery or Completion Date for any reason other than (a) a Force Majeure Event, (b) a failure by Owner to timely perform its material obligations hereunder that adversely affected Contractor's timely performance of the Installation Services or (c) material delays caused by Owner or Owner's agents (other than Contractor and Contractor Staff), Contractor shall pay to Owner as liquidated damages and not as a penalty, at times designated by Owner, [<<$TBD>>] per day for each day the completion of the Delivery or Installation Services is delayed past the Required Delivery or Completion Date (the "*Delay Liquidated Damages*"). In no event shall the Schedule Delay Liquidated Damages paid by Contractor exceed twenty-five percent (25%) of the Contract Price.

2.2. General Terms. It is understood and agreed between the Parties that the terms, conditions and amounts fixed herein do not constitute a penalty and are reasonable considering the damages that Owner will sustain in the event of Contractor's failure to perform in accordance with this Agreement. These amounts are fixed as liquidated damages because of the difficulty of ascertaining the exact amount of damages that will be sustained by Owner by reason of any such failure and shall be applicable regardless of the actual amount of damages sustained by Owner by reason of any such failure but shall not limit Contractor's liability for any other breach hereunder.

2.3. Payment, Offsets and Setoffs. All Delay Liquidated Damages shall be due and payable on a weekly basis beginning with the seventh (7th) day following the first (1st) day such damages accrue until completion of the Schedule Delay, with the last such payment due no later than seven (7) days after completion of the Schedule Delay, at which time Contractor shall pay all previously accrued and unpaid Delay Liquidated Damages amount. Owner shall have the right to offset and/or setoff any and all Delay Liquidated Damages incurred by Owner against any and all portion of amounts due Contractor hereunder.

[ <<Optional Schedule; delete if not applicable>> ]

**SCHEDULE F**

**FORM OF FINAL COMPLETION CERTIFICATE**

DATE:_____

I hereby certify as follows:

1. I am the duly authorized representative of _____(print company name, type of entity and state) ("*Contractor*") and, that as such, I am authorized to deliver this Final Completion Certificate, completed except for signature by GenConn Middletown LLC, a Delaware limited liability company ("*Owner*"), to Owner's duly authorized representative on the above date. Capitalized terms used herein have the meanings set forth in that certain Master Services Agreement dated and effective as of _____(list date)(the "*Agreement*"), by and between Owner and Contractor.

2. I further certify in my capacity as authorized representative of Contractor that the following statements are true, complete and correct as of the date of delivery hereof to Owner:

   (a) Final Completion has been achieved; and

   (b) all of Contractor's supplies, personnel and waste have been removed from the Project Site in accordance with Section 5 of Appendix III attached to the Agreement;

3. The undersigned is duly authorized to submit this Final Completion Certificate to Owner for and on behalf of Contractor.

_____
(print Contractor Name)

By:_____ Date:_____

Name:_____

Title:_____

Owner to check the box of one of the following statements:

☐ Owner agrees that Final Completion has been achieved. This Certificate was received by Owner on the date first written above and is effective as of the date of countersigning below.

☐ Owner does not agree that Final Completion has been achieved due to the omissions, liens or defects listed below and/or the incomplete nature of the specified portions of the Services listed below:

_____

_____

_____

_____

GenConn Middletown LLC,
a Delaware limited liability company

By:_____

Name:_____

Title:_____

Date:_____

**This Certificate must be signed by the person authorized to sign this Final Completion Certificate for and on behalf of Owner.**