



## EQUIPMENT AND SERVICES TERMS AND CONDITIONS

DLC SHALL PURCHASE THE WORK FROM VENDOR PURSUANT TO THE TERMS AND CONDITIONS OF THE PURCHASE AGREEMENT AS PROVIDED FOR HEREIN.

Vendor's commencement of performance or any other conduct by Vendor which indicates that the Purchase Agreement is in effect shall constitute Acceptance by Vendor. Additional or different terms, provided by Vendor at any time, including but not limited to Vendor's proposal(s), shall not apply without the prior written consent of DLC.

### **1.0 DEFINITIONS**

When capitalized in the Purchase Agreement, the following words or phrases shall have the meanings specified:

<b>Acceptance:</b>	Shall have the meaning specified in Article 2.0, Acceptance.
<b>Affiliate:</b>	Shall mean an entity that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with DLC.
<b>Delivery:</b>	Shall have the meaning specified in Article 4.0, Delivery and Title.
<b>DLC:</b>	Shall mean Duquesne Light Company, and/or its Affiliates, as the case may be, or its or their properly authorized representative, successors, or assigns.
<b>DLC's Site:</b>	Shall mean any of DLC's addresses to be designated in the Purchase Agreement.
<b>Equipment:</b>	Shall mean goods, products, components, parts and materials as set forth in the Purchase Agreement.
<b>Price:</b>	Shall mean the price or prices stated in the Purchase Agreement.
<b>Purchase Agreement:</b>	Shall mean DLC's purchase order(s), to which these Terms and Conditions are attached, these Terms and Conditions, supplemental terms and conditions, scope of work, DLC's specifications, Vendor's specifications, price schedule, security addenda, drawings, change order notice(s), surveys, operating, maintenance and instruction manuals and such other documentation as shall be specified in the purchase order.
<b>Services:</b>	Shall mean design, engineering, consulting, testing, evaluation, training, maintenance, repair, management, and any other services necessary to fulfill Vendor's obligations under the Purchase Agreement.
<b>Subcontractor:</b>	Shall mean vendors, suppliers and subcontractors of any tier and any other persons or entities contracting directly or indirectly with Vendor for the performance of the Work under the Purchase Agreement.
<b>Tools:</b>	Shall mean equipment, material, vehicles and tools owned and utilized by Vendor to fulfill its obligations under the Purchase Agreement.
<b>Vendor:</b>	Shall mean the party providing the Work under the Purchase Agreement.
<b>Work:</b>	Shall mean all necessary actions to fulfill Vendor's obligations under the Purchase Agreement.
<b>Work Product:</b>	Shall mean studies, reports, evaluations, designs, drawings, records, forms, manuals, reviews, procedures, specifications, plans, evaluations, recommendations and all other documentation and deliverables which are produced or acquired by Vendor from or at the direction of DLC.
<b>Work Site:</b>	Shall mean DLC property or site or other non-DLC site where Work shall be performed.

If both Equipment and/or Services are not included as part of the Purchase Agreement, then the Purchase Agreement shall be read and interpreted as if no references to "Equipment" and/or "Services" are contained herein; as applicable, and any provisions herein that relate exclusively to Equipment and/or Services, as applicable, shall be deemed to be inoperable and of no effect.

### **2.0 ACCEPTANCE**

Vendor shall notify DLC in writing when the Work or any part thereof designated in the Purchase Agreement is completed. DLC shall inspect the Work and notify Vendor in writing that (1) the Work is satisfactory and is acceptable to DLC or (2) the Work or parts thereof do not conform to the Purchase Agreement. All Work shall be subject to inspections, tests (if applicable), and approval by DLC, or its designated representative. However, DLC's approval and/or the failure to make inspections or tests or to discover defective workmanship or materials shall not prejudice any rights of DLC, including the right to final inspection and testing, and shall not relieve Contractor of its complete and total responsibility for the proper performance of the Work in full compliance with all requirements of this Agreement and all applicable laws and construction specifications. Vendor shall promptly correct all nonconforming Work at its sole expense. Acceptance or payment by DLC shall not waive any of DLC's rights and remedies or relieve Vendor from any of Vendor's duties and obligations including without limitation Vendor's obligations under Article 7.0 below.

Acceptance shall not be deemed to have occurred until Vendor has corrected all nonconformities and DLC has notified Vendor in writing that the Work is satisfactory and acceptable to DLC.

### **3.0 TERM**

The Purchase Agreement shall remain in effect for the specified term in the Purchase Agreement, and if none, then until all Work contemplated by the Purchase Agreement is completed and Accepted.

### **4.0 DELIVERY AND TITLE**

Delivery of all Equipment, Work and Work Product shall be made F.O.B. DLC's Site during DLC's normal business hours, and performance of the Services shall be at DLC's Site or Work Site during normal business hours, unless otherwise agreed to elsewhere in the Purchase Agreement. DLC reserves the right to designate the mode of transportation and carrier. C.O.D. shipments shall be returned to Vendor at Vendor's expense. If the Work is lost or damaged during shipment, Vendor shall promptly replace the lost or damaged Work at no additional cost to DLC. Title and risk of loss or damage to all Equipment, Work, and Work Product supplied to DLC under the Purchase Agreement shall pass to DLC upon Acceptance, except that if Vendor delivers non-conforming Equipment, Work, and/or Work Product, risk of loss shall remain with Vendor until Vendor has corrected all nonconformities. All Work shall be performed at DLC's Sites or Work Sites designated in the Purchase Agreement. Time is of the essence with respect to the delivery obligations contained in the Purchase Agreement.

### **5.0 PAYMENT**

DLC agrees to pay Vendor for the performance of the Work, at the Price(s) set forth in the Purchase Agreement. DLC agrees to pay undisputed invoices under an end of Accumulation Period (EOAP) model. DLC will accumulate and age undisputed invoices over a sixty (60) day period (the "Accumulation Period") and will pay undisputed invoices on the 2<sup>nd</sup> or 4<sup>th</sup> Wednesday of the month following the sixty (60) day Accumulation Period. DLC may pay the undisputed invoice to receive any prompt payment discount. If any portion of the Work does not conform to DLC's specifications and other requirements of the Purchase Agreement upon inspection by DLC a corresponding portion of the Price may be withheld by DLC until the nonconformity is corrected.

Vendor shall not be reimbursed for any out of pocket expenses (including without limitation, travel and lodging expenses) except as specifically provided for in the Purchase Agreement or otherwise agreed to in writing by DLC.

DLC shall have no obligation to pay Vendor or Subcontractor any interest on amounts due and payable under the Purchase Agreement. In no event shall DLC award or reimburse to Vendor or Subcontractor attorneys' fees and expenses or any other costs with respect to any proceedings to recover payment under the Purchase Agreement.

### **6.0 SETOFF**

All claims for money due or to become due from DLC under the Purchase Agreement or other agreements with Vendor shall be subject to deduction or setoff by DLC by reason of any counterclaim arising out of this or any other transaction with Vendor.

### **7.0 WARRANTIES**

Vendor acknowledges that the Work to be performed is for an electric utility and must be compliant with all applicable construction codes and the National Electrical Safety Code (NESC). If Vendor installs any Work that is not compliant, regardless of design intent, Vendor shall be responsible for corrective action to repair, remove, reinstall and make all Work compliant at Vendor's expense.

Vendor also represents, warrants and guarantees that any Services provided under the Purchase Agreement shall be 1) provided in accordance with the requirements of the Purchase Agreement; 2) provided in a skillful, workmanlike and professional manner and consistent with generally accepted industry practices and procedures in Vendor's particular area of expertise and in conformance with recognized standards of the power industry; and 3) provided in compliance with all statutory warranties and be performed in accordance with all applicable law. Vendor acknowledges that DLC is relying upon the expertise, experience and knowledge of Vendor and its personnel to provide the Work under the Purchase Agreement. Vendor warrants that all of its personnel to be utilized in the Work are qualified to fully perform said Work, and that in the event any personnel provided by Vendor are for any reason unable to perform under the terms hereof, a qualified individual will be promptly substituted by Vendor.

If within a period of two (2) years from the date of Acceptance of all of the Work or such later time as specified in the Purchase Agreement, the Work or any of its parts shall fail to conform, regardless of design intent, to this warranty, DLC, at its option, shall have the following remedies:

- A. Have, at Vendor's expense, the Equipment, Work and Work Product promptly repaired or replaced by Vendor, and with respect to any Services, have the Services promptly reperfomed by Vendor;
- B. Have, at Vendor's expense, the Equipment, Work and Work Product promptly repaired or replaced, and with respect to any Services, have the Services promptly reperfomed by DLC or a third party;
- C. Accept the Work as provided and adjust the Price by the amount of the cost of correcting the nonconformity or, at DLC's option, the amount by which the value of the Work is diminished from the value of conforming Work;
- D. Return the Equipment, Work, and Work Product and receive a proportionate refund of the Price of the Equipment, Work and Work Product as well as for all Services related thereto whether conforming or not;
- E. Receive a refund for all non-conforming Services; or
- F. Receive a refund of a proportionate amount of the Price of the Work if DLC cannot apply remedies 1, 2 or 3 after a thirty (30) day period from Vendor's receipt of DLC's warranty claim.

Vendor shall extend to DLC any warranty that it receives from Subcontractors which exceeds the warranty specified above.

The above remedies shall be available in addition to all other remedies available at law or in equity and all remedies shall be cumulative and nonexclusive.

The costs of removing, transporting and reinstalling the Equipment, Work or Work Product in order to make the Equipment, Work or Work Product conform to the above warranties shall be borne by Vendor.

The warranty period shall be extended by the amount of time during which the Work is nonconforming.

## **8.0 OWNERSHIP RIGHTS**

DLC shall have the exclusive use of and own all title, rights and interests in and to the Work. All Services and Work Product shall be considered "work made for hire."

## **9.0 INDEMNIFICATION**

Vendor shall defend, indemnify and hold harmless DLC from and against and shall pay all losses, damages, liabilities, claims and actions, and all related expenses (including reasonable consultants' and attorneys' fees and expenses and the actual costs of litigation) by reason of injury or death to any person, including but not limited to employees of Vendor and its Subcontractors, damage to any property, or any other occurrence arising or resulting from performance of the Work, defects in the Work or any other cause to the extent not attributable to the sole negligence of DLC.

To the fullest extent permitted by law, Vendor waives as to DLC its immunity against suits by Vendor's and Subcontractor's employees under the workers' compensation laws of Pennsylvania and any other state where Work will be performed.

Vendor shall notify DLC of all losses, damages, liabilities, penalties, fines, assessments, claims and actions for which Vendor may have an indemnification obligation under the Purchase Agreement. DLC shall have the right, but not the obligation, in its sole discretion, to participate in the defense, at Vendor's cost, to the extent DLC deems necessary to protect its interests.

## **10.0 INTELLECTUAL PROPERTY INDEMNIFICATION**

Vendor warrants that the Work provided by Vendor or its Subcontractors shall not infringe or misappropriate the intellectual property rights of any third parties. Vendor shall defend, indemnify and hold harmless DLC from and against and shall pay all losses, damages, liabilities, claims and actions, and all related expenses (including reasonable attorneys' fees and expenses and the actual costs of litigation) based on an allegation that any Work or parts thereof infringe or misappropriate the rights of others, and if their use by DLC is enjoined, Vendor shall, at DLC's option and Vendor's expense, either: (1) procure for DLC the right to continue using the Work or parts thereof; (2) replace the same with substantially equivalent Work or parts thereof that do not infringe or misappropriate the rights of others; (3) modify the same so they no longer infringe or misappropriate the rights of others (so long as such modification does not adversely or materially affect the performance or functionality); or (4) refund the Price and the transportation and installation costs to DLC. Vendor shall obtain from all Subcontractors substantially similar indemnity protection for DLC.

## **11.0 LIENS**

Vendor shall not file and shall take all actions necessary (including without limitation obtaining all performance and/or payment bonds) to prevent any Subcontractor from filing any lien against DLC's property, including DLC's Site. In addition, Vendor, at its sole cost and expense, shall take all immediate action necessary to remove such liens in the event they have been filed and Vendor shall defend, indemnify and hold harmless DLC and any of its property, including DLC's Site, from all demands, liabilities and liens which may arise in favor of Vendor or any Subcontractor, and from all damages, costs and expenses (including reasonable attorneys' fees and expenses and the actual costs of litigation) resulting from such demands, liabilities or liens. If requested by DLC, Vendor shall execute DLC's Stipulation Against Liens Agreement and shall file it in the appropriate governmental offices.

## **12.0 DISCLAIMER OF CONSEQUENTIAL DAMAGES**

Except with respect to liability incurred under the Articles entitled Indemnification, Intellectual Property Indemnification, Ownership Rights and Confidential/Proprietary Information, neither party shall be liable to the other party for any indirect, incidental or consequential damages in connection with overhead expenses or loss of anticipated profits or revenue of the other party, regardless of whether a party has been informed of the possibility of such damages.

## **13.0 CHANGES**

DLC may at any time by written notice make changes within the general scope of the Purchase Agreement. If any change results in a material increase or decrease in the Price or otherwise materially affects the Purchase Agreement, the notice shall include an equitable adjustment in the Price, the Schedule and/or any other affected provision. Any objection by Vendor to the proposed equitable adjustment must be asserted, in writing, within seven (7) business days after receipt of the notice. Notwithstanding such objection, if directed by DLC, Vendor shall proceed with the change and nothing in this Article shall excuse Vendor from proceeding with the Work as changed. Any dispute hereunder shall be resolved pursuant to Article 17.0, Disputes.

## **14.0 SUSPENSION OR INTERRUPTION OF WORK**

DLC may direct Vendor, in writing, to suspend or interrupt all or any part of the Work for such period of time as DLC may determine to be appropriate. Vendor shall mitigate the costs of such suspension or interruption. DLC agrees to reimburse Vendor for all direct expenses necessarily incurred and approved by DLC as a result of such suspension or interruption, subject to DLC's right to audit Vendor's books and records. If DLC suspends the Work due to Vendor's default, including nonconformance in the Work, DLC shall not be responsible for expenses incurred by Vendor as a result of suspension of the Work.

Vendor shall notify DLC immediately of any delay in milestone, delivery or shipment dates, hereinafter referred to as the "Schedule." If Vendor fails to meet any part of the Schedule, DLC, without limiting its other rights or remedies, may either direct that the Work be expedited or terminate all or part of the Purchase Agreement for cause in accordance with Article 15.0, Termination. In such event, Vendor shall be liable to DLC for all costs, losses and expenses. In no event shall DLC be liable for costs, losses and expenses in connection with delays unless such delays are solely attributable to DLC and cause the overall Schedule to be exceeded.

## **15.0 TERMINATION**

DLC may terminate all or part of the Purchase Agreement if Vendor abandons the Work, becomes bankrupt or insolvent, is unable to obtain a bond (if required), assigns the Purchase Agreement or subcontracts the Work or any of its parts without DLC's consent or otherwise fails to comply with the Purchase Agreement or any other contract with DLC; provided, however, that prior to such termination DLC must have notified Vendor in writing of its intent to terminate the Purchase Agreement and the reasons therefor, and, other than for events of Vendor's bankruptcy or insolvency for which no cure period shall apply, Vendor must have failed to cure, to the satisfaction of DLC, such noncompliance within ten (10) days after receipt of notice or such other time specified by DLC in the termination notice. DLC, in its sole discretion, may immediately terminate the Purchase Agreement upon notice to Vendor if: (a) Vendor has defaulted numerous times under contracts between DLC and Vendor, notwithstanding Vendor's remedy of such defaults, thereby establishing to DLC a pattern of poor performance under the Purchase Agreement or other contracts with DLC, (b) the Work is being performed in a manner that poses a threat to Vendor's employees, Subcontractors, DLC employees or contractors, the general public, or DLC's cybersecurity, or (c) the Vendor has engaged in conduct, which in DLC's sole opinion, disparages or impairs the reputation and integrity of DLC. If DLC terminates for cause, DLC may complete or contract with a third party to complete all or part of the Work, and Vendor shall be liable to DLC for the excess costs to complete all or such part of the Work and any other damages resulting from Vendor's noncompliance. If it is subsequently determined that DLC did not have adequate cause to terminate the Purchase Agreement pursuant to this paragraph, then the parties agree that such termination shall be deemed to be a termination without cause pursuant to the following paragraph.

DLC may also terminate upon written notice all or part of the Purchase Agreement without cause. Upon receipt of notice, Vendor shall bring the Work to a timely conclusion. DLC shall pay Vendor a proportionate amount of the Price due to Vendor for Work completed and accepted up to the effective date of termination plus costs necessarily incurred directly as a result of the termination, subject to DLC's right to audit Vendor's books and records. In all cases, upon DLC's request, Vendor shall transfer title and deliver to DLC any contracts, rights and Work produced or acquired by Vendor and any rights obtained by Vendor that may be necessary to enable DLC or a third party to perform the Work.

#### **16.0 NOTICE OF LABOR DISPUTES**

Whenever an actual or potential labor dispute delays or threatens to delay the performance of the Work, Vendor shall immediately notify DLC in writing. Such notice shall include all relevant information concerning the dispute.

#### **17.0 DISPUTES**

Any dispute, controversy or claim arising out of or under the Purchase Agreement or its performance shall first be negotiated by the parties. Any disagreement or dispute between the parties shall, if not promptly resolved by mutual agreement, be reduced to writing and submitted to executive officers of each party designated by such party to handle such disputes. Within thirty (30) days of the submittal, such executive officers may, upon mutual agreement, meet to attempt to resolve the dispute and to hear any arguments that a party wishes to make in connection therewith. If the executive officers reach an agreement of the disposition of the dispute, they shall promptly issue their joint written decision resolving the dispute. Any dispute resolved by such decision shall be conclusively and finally decided and shall not be the subject of any litigation. Should the executive officers be unable to promptly resolve a dispute, either party may commence litigation.

#### **18.0 CONFLICTS, ERRORS AND OMISSIONS**

In the event that Vendor or DLC becomes aware of any conflict, error or omission in the documents comprising the Purchase Agreement, if it is not addressed in Article 42.0, Priority of Documents, such party shall promptly bring the discrepancy to the attention of the other party. Such discrepancy shall be resolved by mutual agreement of the parties.

#### **19.0 INSPECTION AND TESTS**

DLC may, at any time, inspect the progress of the Work provided under the Purchase Agreement including, but not limited to, Work performed at Vendor's or Subcontractor's facilities. If the Purchase Agreement, laws, ordinances, rules, regulations or orders of any public authority require any portion of the Work to be inspected, tested or approved, DLC shall give Vendor reasonable notice to permit DLC to observe such inspection, testing or approval. Vendor shall provide to and obtain for DLC reasonable access to Vendor's and Subcontractor's facilities and shall provide periodic status reports during the course of the Work.

#### **20.0 JOB COST ACCOUNTS AND INFORMATION, GIFTS, AUDITS**

Vendor shall maintain detailed separate cost data and records for each purchase order, in accordance with generally accepted accounting principles, for a period not less than the period required under this section, or such longer period as may be required by any applicable law. Vendor shall maintain detailed records of any gift or gratuity provided to DLC or its employees, agents or representatives. Vendor's records pertaining to the cost of the Work (other than fixed Prices agreed to prior to performance of the Work), gifts to DLC and Vendor's applicable tax records shall be open at all reasonable times for inspection or audit by DLC or its representative(s). DLC or its representative(s) shall at reasonable times have access to the premises, materials, instructions, working papers, plans, drawings, specifications, memoranda and other information of Vendor pertaining to the Work, gifts provided or taxes paid. All Vendor's purchase orders or contracts with Subcontractors shall provide that DLC or its representative(s) shall have similar inspection, audit and access rights. DLC's rights under this Article shall terminate five (5) years after expiration of the warranty period.

Notwithstanding the foregoing, Vendor understands that the Pennsylvania Public Utility Commission ("PUC") and/or any regulator or other governmental entity with jurisdiction over DLC and its Affiliates may examine Vendor's activities relating to the performance of its obligations under this Purchase Agreement to the extent such authority is granted to such entities under the law. Vendor shall promptly cooperate with and provide all information reasonably requested by the regulator or other governmental entity in connection with such examination and provide reasonable assistance and access to all equipment, records, networks, and systems reasonably requested by the regulator or other governmental entity. Vendor agrees to comply with all reasonable recommendations that result from such regulatory examinations within reasonable timeframes.

#### **21.0 INSURANCE**

Vendor shall properly maintain the following coverage: Statutory Workers' Compensation Insurance in full compliance with the Workers' Compensation and Occupational Disease Acts of each and every state in which Work is to be performed and U.S.

Longshoremen's and Harbor Workers' Compensation Acts, if applicable; Employer's Liability Insurance with a limit of not less than \$5,000,000; Commercial General Liability Insurance including Premises-Operation Independent Contractor's Protective, Products, Completed Operation, broad form property damage, bodily injury, personal injury, and Blanket Contractual Liability coverages with a combined single limit of not less than \$5,000,000 per occurrence and \$10,000,000 aggregate and coverage for blasting or explosion, collapse and underground Work if applicable; Excess Umbrella Liability Insurance with a single limit of not less than \$10,000,000 per occurrence and \$20,000,000 aggregate; and Automobile Liability Insurance covering all owned, hired and non-owned vehicles with a combined single limit of not less than \$1,000,000 per occurrence. If Vendor maintains broader coverage and/or higher limits than the minimums shown above, DLC requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to DLC. All policies provided by Vendor shall be deemed primary and non-contributory to all other applicable coverages. Vendor shall provide DLC with a Certificate of Insurance specifically evidencing the coverages required above, naming DLC as an additional insured, except under the Workers' Compensation Policy, and stating the policy numbers and the inception and expiration dates of all policies. Waiver of subrogation shall be provided to the benefit of DLC. The Certificate of Insurance shall also provide for thirty (30) days' prior written notice to DLC in the event of cancellation or any material alteration of any policy. The Certificate of Insurance shall be furnished to and/or be on file with DLC prior to commencement of any Work under the Purchase Agreement by Vendor or any of its Subcontractors. The Property Damage Liability Insurance shall include the Broad Form Commercial General Liability coverage. Vendor's obligation to maintain insurance shall not in any way limit its liability under the Purchase Agreement. Waiver of subrogation shall be provided to the benefit of DLC. All policies provided by the Vendor shall be deemed primary and non-contributory to all other applicable coverages.

#### **22.0 TAXES**

DLC shall provide to Vendor, upon Vendor's request, a tax exemption certificate for all taxes which become due under Pennsylvania sales and use tax laws, except for taxes that Vendor is required to pay under such laws. Upon DLC's request, Vendor shall provide evidence satisfactory to DLC of the payment of any taxes which Vendor is required to pay. Vendor shall assume and pay all other taxes. Vendor shall provide to DLC such additional information as DLC may request to facilitate the determination of taxes for which DLC is responsible. Vendor agrees to reimburse and hold DLC harmless from any deficiency (including penalties and interest) caused by Vendor relating to taxes that are the responsibility of Vendor under this Article.

#### **23.0 CONFIDENTIAL/PROPRIETARY INFORMATION**

Vendor agrees to treat as confidential and proprietary, and to not disclose to any third party, any of DLC's information which is not generally known to the public, or which is otherwise identified as confidential or proprietary in nature or which would be reasonably understood by a prudent person to be confidential, and to exercise the same care to prevent the disclosure of such information as Vendor exercises to prevent disclosure of its own proprietary and confidential information, but in no event with less than a reasonable standard of care; however, Vendor may disclose such information to the extent, and only to the extent as required by law, but not without first giving prompt written notice to DLC and allowing DLC the opportunity to contest the disclosure of such materials before the applicable court or tribunal. DLC's information shall be utilized by Vendor only in connection with performance of its obligations under the Purchase Agreement. Vendor acknowledges and agrees that the existence and nature of the Purchase Agreement are confidential information of DLC. Vendor warrants and represents that each employee, agent, representative or Subcontractor who performs work in connection herewith has been informed of the obligations contained in the Purchase Agreement and has agreed to be bound by them.

Vendor agrees that its Work must be in compliance with the North American Electric Reliability Corporation's (NERC) Standard CIP-004-3 (the "CIP Standard"). The CIP Standard, requires, among other things, that DLC train and perform a personnel risk assessment on all individuals (including contractors and service vendors) with unescorted physical access or cyber access to DLC's Critical Cyber Assets, as defined in the CIP Standard, prior to granting access to such assets. If Vendor requires unescorted physical and/or logical access to DLC's Critical Cyber Assets to perform the Work hereunder, Vendor employees or subcontractors with such access must undergo DLC training and personnel risk assessment and/or Vendor must send to DLC verification that these employees or subcontractors have met the requirements of the CIP Standard. In addition, under the CIP Standard, Vendor has an ongoing obligation to immediately notify DLC of any changes in the status of Vendor employees or subcontractors with unescorted access, including suspension, termination (including for cause terminations) or criminal activity that would be considered a potential concern to the reliability of DLC's operations and security. Failure to comply with the requirements of the CIP Standard or the failure to notify DLC of any status changes with respect to Vendor employees or subcontractors who have access to DLC's Critical Cyber Assets will constitute an immediate default by Vendor hereunder without opportunity to cure and the exercise by DLC of any available remedies.

Upon completion of the delivery of the equipment and/or services to be delivered under this Purchase Agreement, or at any time upon the request of DLC, Vendor will return or certify the destruction of all confidential or proprietary information. The certification of destruction must detail the destruction method used, the data involved, the date of destruction, and the entity or individual who performed the destruction.

#### **24.0 PUBLICITY**

Vendor shall not use DLC's name or issue any public releases including, but not limited to, news releases, advertising, postings on social media, technical publications and responses to media inquiries, relating to the Purchase Agreement without the prior written consent of DLC.

#### **25.0 TIME IS OF THE ESSENCE**

Time is of the essence for Vendor's performance of the Work, and Vendor shall strictly meet the Schedule.

#### **26.0 FORCE MAJEURE**

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Neither party shall be liable for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to causes beyond its reasonable control, including but not limited to, acts of God, public enemy or government, riots, fires, bomb threats, natural catastrophe, strikes or epidemics. In the event of such failure or delay, the date of Delivery or performance shall be extended for a period not to exceed the time lost by reason of the failure or delay; provided that DLC may terminate the Purchase Agreement if the period of failure or delay exceeds fifteen (15) days without further liability or obligation to Vendor except with respect to amounts due and owing in connection with an undisputed invoice issued prior to the force majeure event. DLC shall have no obligation to make any payments to Vendor during the period of failure or delay. Each party shall notify the other promptly of any failure or delay in, and the effect on, the Work.

### **27.0 ASSIGNMENT**

Vendor shall not assign the Purchase Agreement, in whole or in part, or engage with any Subcontractor for the performance of the same or any of its parts, without first obtaining DLC's written consent. Vendor shall make no substitution for any Subcontractor without the prior written authorization of DLC. DLC's consent shall not be construed as discharging or releasing Vendor in any way from the performance of the Work or the fulfillment of any obligation under the Purchase Agreement, and Vendor specifically acknowledges and agrees that it shall remain fully liable hereunder regardless of whether it has subcontracted all or any portion of such obligations.

DLC may assign the Purchase Agreement to (i) Affiliates or (ii) a third party upon prior written notification to Vendor, which notice shall not require consent by Vendor.

### **28.0 WORK BY DLC OR SEPARATE VENDOR**

DLC may be performing work related to the Work with its own forces or through separate purchase agreements with other contractors. In such instances, DLC reserves the right to coordinate the Work with the work of its forces and the other contractors.

### **29.0 VERIFICATION OF CONDITIONS AT SITE**

Vendor shall perform a thorough inspection of DLC's Site and/or the Work Site for the purpose of identifying any condition that may affect the Work, such as possible errors in work previously performed by others and difficulties that might be encountered in the performance of the Work for any reason.

Vendor represents that, prior to submitting its proposal for the Work, it has carefully examined all of the specifications, drawings and directions in connection with the Work and all other conditions relevant to the Work. Vendor represents it has made all investigations essential to a full understanding of the difficulties that may be encountered in the performance of the Work, and it assumes full and complete responsibility for and all risk in connection with said Work.

Vendor agrees that the Price specified herein is based on Vendor's inspection of the Work Site, specifications, and drawings, and that Vendor will make no claim for additional compensation if the conditions encountered differ from those anticipated from such inspection.

When the proper performance of any part of the Work depends upon other work, whether performed by Vendor or others, Vendor shall verify all necessary dimensions, measurements, equipment and other conditions that may affect the Work.

Vendor shall have full responsibility for failure to comply with this Article. No adjustment to the Price shall be made for Vendor's failure to comply with this Article.

### **30.0 PROTECTION OF PROPERTY AND PERSONS**

Vendor shall take all necessary precautions during the progress of the Work to protect all persons and the property of DLC and others from injury, loss or damage including, without limiting Vendor's duties, any precautions directed by DLC in the event of an emergency situation or other such circumstance where DLC reasonably believes a threat to safety exists. Vendor shall assume full responsibility for all tools, equipment and materials to be used in connection with the Work.

### **31.0 ENVIRONMENTAL COMPLIANCE**

- A. Vendor and each Subcontractor shall comply with, and shall not jeopardize DLC's compliance with or affect DLC's methods of compliance with, all applicable federal, state and local laws, ordinances, codes, regulations and permits (collectively as used in this Article, Laws) relating to safety and the protection of the environment including, but not limited to, the use, storage, handling, protection, transportation and disposal of all hazardous materials, hazardous substances, toxic substances, and residual waste. The Work shall be in compliance with all Laws on the date of Acceptance. Vendor shall advise DLC of any applicable changes or potential changes in the Laws known to Vendor which will or may become effective subsequent to the date of Acceptance.
- B. Prior to commencement of the Work, Vendor shall identify the waste characteristics and quantities of all wastes anticipated to be generated during performance of the Work. Vendor shall also determine the classification of any unanticipated by-product or residue materials according to applicable Laws and advise DLC of the outcome of such determination. If Vendor is required to comply with any manifest requirements, it shall submit a copy of such manifest to DLC for approval prior to transportation or disposal.
- C. If Vendor or Subcontractor provides Equipment, Services, Work or Work Product to be used by another vendor in the performance of work for DLC, Vendor or Subcontractor shall specify in the Purchase Agreement that such other vendor must comply with the requirements of all present and future applicable changes in the Laws.
- D. Prior to commencement of any Work, Vendor will provide to DLC current Safety Data Sheets ("SDS") for all hazardous products sold to or contained in any Equipment sold to DLC or brought onto DLC's Site and/or Work Site in connection with the performance of Services and/or Work hereunder. Vendor will either provide SDS in all product packaging or, at a minimum, (i) provide an SDS to DLC upon the initial purchase of a hazardous material, or (ii) in the case that Vendor is using hazardous material in the performance of any Services, prior to the time that Vendor first brings the materials onto DLC's Site and/or Work Site, and at any time that an SDS is modified.

- E. Vendor and Subcontractor shall not damage or degrade the environment during the performance of the Work and shall perform all reporting/control/clean-up measures directed by DLC and/or required by all Laws in the event of such damage or degradation.
- F. Vendor's and Subcontractor's activities shall not encroach upon any environmentally sensitive areas including without limitation wetlands, wet areas, riverine areas or stream crossings, unless conducted in compliance with all Laws, subject to Vendor's prior written notice to DLC and DLC's written approval of the activities. DLC's approval does not alleviate Vendor of its liability for violation of applicable environmental and other laws.
- G. All Vendor's purchase orders or contracts with Subcontractor shall require Subcontractor to comply with the provisions of this Article.

### **32.0 PREMISES**

Vendor shall confine its facilities, materials, and Tools on DLC's Site and/or Work Site in areas specified by DLC for that purpose. Vendor shall, during the progress of the Work and upon completion of the Work, clean up and remove from DLC's Site and/or Work Site and from the adjoining premises, driveways and streets all waste materials, rubbish, tools, machinery and equipment and leave DLC's Site and/or Work Site and adjoining premises, driveways and streets free and clear from all obstructions. In addition, upon completion of the Work, Vendor shall restore DLC's Site and/or Work Site to the condition in which it was prior to commencement of the Work or as directed by DLC.

### **33.0 APPROVAL OF PLANS, SPECIFICATIONS AND SCHEDULES**

Vendor shall develop and submit for review and approval by DLC any plans, schedules, procedures, checklists, drawings, specifications and other documentation requested by DLC to verify that the Work conforms to the Purchase Agreement. Unless otherwise instructed in writing by DLC, Vendor shall not proceed with any part of the Work which requires prior approval by DLC until such approval has been obtained. For all Work performed under the Purchase Agreement, DLC shall have the right to approve Vendor's Work crews.

### **34.0 KEY PERSONNEL**

The Work shall be performed by Vendor's key personnel, if named in the Purchase Agreement and agreed to by Vendor and DLC. No other person shall be substituted without the prior written approval of DLC. Vendor shall replace any of its key personnel to whom DLC reasonably objects, and any replacement shall be subject to the prior written approval of DLC. In the event that any key personnel leave Vendor's employ or become otherwise unable to perform their duties for causes beyond Vendor's control, Vendor shall provide replacement personnel of equal capabilities and bear any additional travel and living expenses as well as screening and formal training associated with providing such replacement personnel.

In addition, Vendor shall provide DLC with a list of any personnel who will be working under this Purchase Agreement who are known former employees of DLC, prior to their commencement of any Work. DLC, in its sole discretion, shall be allowed to approve or disapprove of said personnel and whether they will be allowed to complete any work under this Purchase Agreement.

### **35.0 BONDS**

Vendor, if required/requested by DLC at any time, shall furnish performance bonds in form, amount and with sureties acceptable to, and at expense of DLC, covering the faithful performance of the Purchase Agreement and labor and material payment bonds covering the payment of all obligations arising under and as required by the Purchase Agreement.

### **36.0 SUPPLIER DIVERSITY**

It is the policy of DLC to stimulate the growth of diverse suppliers, including but not limited to minority-, women-, LGBT-, veteran-, and disabled-owned businesses as well as disadvantaged business and small businesses, by encouraging their participation in DLC's procurement activities and by affording them an equal opportunity to compete for DLC's procurements. Vendor agrees to carry out this policy to the fullest extent consistent with the requirements of the Purchase Agreement (1) through the award of subcontracts to diverse suppliers, or (2) if Vendor is a diverse supplier, through the use of its own forces. Upon DLC's request, Vendor agrees to provide any information necessary for DLC to review compliance with this Article.

### **37.0 NOTICES**

Any notice required or permitted under the Purchase Agreement shall be in writing and sent to the other party at its respective address identified in the purchase order.

### **38.0 INDEPENDENT CONTRACTOR**

Vendor and its Subcontractors shall operate as independent contractors in the performance of the Purchase Agreement and not as agents, employees or representatives of DLC. Vendor shall ensure that neither it nor its agents, employees, representatives or Subcontractors shall act or hold themselves out as agents, employees or representatives of DLC. Vendor shall have complete control of its agents, employees, representatives and Subcontractors engaged in the performance of Work. Vendor shall be solely responsible for the payment of all taxes including without limitation, Federal, state or local income taxes and all employment and disability insurances, Social Security and other similar taxes.

### **39.0 PROHIBITION OF ASBESTOS**

Vendor shall not provide any materials, parts or components which contain asbestos. In the instance or application where no other materials, parts or components are an acceptable or feasible substitute for the materials, parts or components containing asbestos, Vendor shall inform DLC, in writing, of the pertinent facts regarding the application. DLC shall respond, in writing, with its disposition of the materials, parts or components. Verbal requests and dispositions shall not be contractually binding unless confirmed in writing and accepted by Vendor within ten (10) days after receipt of each request.

All Vendor proposals for asbestos substitute materials, parts or components shall be accompanied by an SDS.

### **40.0 VENDOR'S AUTHORITY**

Vendor has no authority, express or implied, to commit DLC in any way to perform in any manner or pay money for any Work or materials or any other costs, other than as provided in the Purchase Agreement.



#### **41.0 REPORTS**

Vendor shall furnish oral and/or written reports to DLC from time to time as requested by DLC. Such reports shall be sufficient to apprise DLC of the status of the Work and of the progress being made. Vendor shall provide written notice to DLC when Work equivalent to seventy-five percent (75%) of the Price has been completed. At the completion of the Work, Vendor shall provide a final report, including the results achieved and appropriate recommendations.

#### **42.0 PRIORITY OF DOCUMENTS**

In the event of conflict among the various documents of the Purchase Agreement, the conflict shall be resolved according to the following priority, unless otherwise set forth in the purchase order:

1. DLC's Change Order Notices
2. Duquesne Light Equipment and Services Terms and Conditions (including referenced policies and addenda)
3. DLC's Purchase Order
4. Exhibits or Schedules
5. DLC's Request for Proposal
6. Vendor's Proposal

#### **43.0 CUMULATIVE REMEDIES**

All rights and remedies of DLC in the Purchase Agreement shall be cumulative and in addition to all other remedies allowed at law or in equity.

#### **44.0 SEVERABILITY**

If any provision(s) of the Purchase Agreement is found by a court of competent jurisdiction to be illegal or otherwise unenforceable, that finding shall not invalidate the whole Purchase Agreement and the remaining provisions shall remain in full force and effect, and such invalid provisions shall be deemed to be modified to be enforceable to the fullest extent permitted by law.

#### **45.0 SURVIVAL**

Any provision of the Purchase Agreement which contemplates performance or observance subsequent to any termination or expiration of the Purchase Agreement shall survive any termination or expiration of the Purchase Agreement and continue in full force and effect. Additionally, all provisions of the Purchase Agreement will survive the expiration or termination of the Purchase Agreement to the fullest extent necessary to give the parties the full benefit of the bargain expressed therein.

#### **46.0 LAWS, CODES, RULES, REGULATIONS**

Vendor and Subcontractors at their own expense shall obtain all necessary licenses and permits and shall otherwise comply with all applicable federal, state and local laws, statutes, ordinances, codes, rules and regulations relating to performance of the Work including, but not limited to, Occupational Safety and Health Administration regulations and standards and other safety, environment, labor standards and workers' compensation.

The provisions of 41 CFR Section 60-1.4(a) and of 29 CFR Part 471, Appendix A to Subpart A, if applicable, are incorporated herein by reference. In addition, Vendor and Subcontractors shall abide by the requirements of 41 CFR Section 60-300.5(a) and 41 CFR Section 60-741.5(a). These regulations, respectively, prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.

Vendor and its Subcontractors shall comply with Safety and Health Regulations for Construction, 29 CFR 1926; Electric Power Generation, Transmission, and Distribution, 29 CFR 1910.269; the latest version of the National Electric Safety Code (NESC); and DLC's Construction Specifications and attachments. For avoidance of doubt, Vendor and its Subcontractors are expected to comply with all applicable regulations, regardless of design intent or drawings received from third parties.

Vendor and Subcontractors shall also comply with DLC's policies, rules and procedures, including without limitation, the Supplier Code of Conduct available at <https://duquesnelight.com/working-with-us/dlc-suppliers/>, as it may be amended from time to time. In addition to the Supplier Code of Conduct, for those Vendors and/or Subcontractors who will be performing Services at a DLC Site, Work Site, or accessing DLC cyber systems, DLC's Policies for Ethical Conduct also apply and are available at <https://www.duquesnelight.com/docs/default-source/default-document-library/policies-for-ethical-conduct.pdf>.

#### **47.0 DRUG TESTING**

In the event that any Work is to be performed on DLC's Site, Vendor shall maintain a drug testing policy that is satisfactory to DLC, in its sole discretion. Vendor shall provide such policy to DLC prior to beginning performance of any Work hereunder. DLC reserves the right to impose any additional testing requirements it deems appropriate due to the nature of the Work to be performed, in its sole discretion. Vendor shall, during the term of the Purchase Agreement and for a period of one (1) year thereafter, deliver any non-HIPAA protected information required by DLC to ensure compliance hereunder, including without limitation, testing results of any Vendor employee who has been, or may be, on DLC's property. Vendor shall preserve all drug testing results and related information during the term of the Purchase Agreement and for a period of at least three (3) years following termination of the Purchase Agreement. DLC's approval of such policy shall not give rise to any liability of DLC, and Vendor shall indemnify, defend and hold harmless DLC with respect to any claim hereunder.

#### **48.0 BACKGROUND CHECK**

Vendor shall conduct background investigations (BI) for all Vendor's or Subcontractor's employees, agents or representatives where the scope of work to be performed will require: (i) Vendor's presence for a single period of five (5) working days or more upon property in which DLC or its subsidiaries or affiliates have an interest, including without limitation fee, leasehold, license or right of way, (ii) access to owner's business critical infrastructure, and/or (iii) BI is required for any unescorted physical or cyber access of DLC's facilities or cyber systems. Background investigations required for access to such critical infrastructure are separate from the above background checks and will be conducted by DLC's Security Services. In addition, BI requirements may be applied to other personnel



at the sole discretion of DLC. DLC has the right to require proof of such investigation and satisfactory compliance with the minimum criteria, which shall be readily available for DLC's inspection. DLC requires that Vendor maintain records of investigations for a minimum of five (5) years after the Work is completed. Vendor is solely responsible for ensuring that its employees, Subcontractors, agents and representatives assigned to the Work meet or exceed the requirements of this Article. Vendor must have all background investigations completed prior to the start of Work or in the case of emergencies and with the written permission of DLC, Vendor may be permitted to start Work while the investigations are being conducted, provided that all background investigations are completed within ten (10) working days of the start date.

#### **49.0 NON-SOLICITATION**

During the term of this Purchase Agreement and for a period of twelve (12) months after termination, neither party shall, without prior written consent, directly or indirectly; solicit, offer work to, employ, or contract with, on its own behalf, any of the other party's Personnel (as defined below) or the Personnel of its Affiliates. For purposes of this Article, "Personnel" includes any individual or personal services company that a party employs or has employed as a partner, employee, consultant, or independent contractor. This Article shall not apply to Personnel who independently solicit employment from the other party, or respond to indirect solicitations (such as general newspaper advertisements, employment agency referrals and internet or social media postings) not specifically targeting such Personnel.

#### **50.0 GOVERNING LAW/JURISDICTION**

The Purchase Agreement shall be governed by, enforced and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, without regards to its internal conflict of law principles. Any litigation shall be filed and pursued exclusively in either state or federal court in Pittsburgh, Pennsylvania and the parties hereto waive any claim based on inconvenient forum or venue, or lack of jurisdiction. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply to the transaction represented hereby or any goods sold hereunder. Neither party may claim the right to a trial by jury, and both parties waive any right they may have under applicable law or otherwise to a trial by jury.

#### **51.0 SUBCONTRACTOR FLOWDOWNS**

Notwithstanding any approval of Subcontractors by DLC, Vendor shall be solely responsible for the application of the terms of the Purchase Agreement to such Subcontractors as necessary to bind such Subcontractors to the obligations of Vendor in the Purchase Agreement. Any violation of the terms of the Purchase Agreement by Subcontractors, including by way of example and not limitation the Articles herein entitled Liens, Notice of Labor Disputes, Confidential/Proprietary Information (including destruction of), and Inspections and Tests shall be deemed to be a breach of the Purchase Agreement by Vendor.

#### **52.0 WAIVER**

A party's failure to enforce a provision at one time shall not constitute a waiver of compliance with such provision, and a party's waiver of a breach of any provision contained in the Purchase Agreement shall not constitute a waiver of any other breach or of any subsequent breach of the same provision. No waiver, consent, modification, amendment or change of the terms contained in the Purchase Agreement shall be binding unless made in writing and signed by Vendor and DLC. Except as expressly provided in the Purchase Agreement, a party's failure to object to terms contained in any subsequent communication from the other party (whether in a purchase order or other communication) will not be a waiver or modification of the terms set forth in the Purchase Agreement.

#### **53.0 SECURITY PROTOCOLS**

Vendor represents and warrants that its responses to DLC's Energy Sector Supply Chain Risk Questionnaire (ES-SCRQ), if required by DLC to be completed, contain accurate information relating to Vendor's systems, processes and procedures as of the date of the Purchase Agreement. Vendor shall promptly notify DLC in the event of any changes to Vendor's systems, processes and procedures after the execution of the Purchase Agreement. Any additional privacy and security addenda referred to in the purchase order shall be incorporated into the Purchase Agreement as though set forth in full in the Purchase Agreement.

Vendor represents and warrants that Vendor shall comply with DLC's additional Cyber Security – Supply Chain Requirements Addendum if provided to Vendor.

Upon request, Vendor shall provide to DLC the opportunity to review a copy of Vendor's policies, procedures, evidence and independent audit report summaries that are part of a cyber security framework (e.g., ISO-27001, SOC2). DLC or its third-party designee may, but is not obligated to, perform audits and security tests of Vendor's IT or systems environment and procedural controls to determine Vendor's compliance with the system, network, data, and information security requirements of this Purchase Agreement. DLC audits of the Vendor system shall be initiated with at least 30 days advance notice. These audits and tests may include coordinated security tests, interviews of relevant personnel, review of documentation, and technical inspection of systems and networks as they relate to the receipt, maintenance, use, retention, and authorized destruction of DLC confidential information. Vendor shall provide all information reasonably requested by DLC in connection with any such audits and shall provide reasonable access and assistance to DLC upon request. Vendor will comply, within reasonable timeframes at its own cost and expense, with all reasonable recommendations that result from such inspections, tests, and audits. DLC reserves the right to view, upon request, any original security reports that Vendor has undertaken or commissioned to assess Vendor's own network security. Vendor will notify DLC of any such security reports or similar assessments once they have been completed. Any regulators of DLC or its affiliates shall have the same rights of audit as described herein upon request.

#### **54.0 ENTIRE AGREEMENT**

The Purchase Agreement contains the entire agreement between the parties with respect to the subject matter and supersedes any and all prior oral or written agreements. All policies and addenda referenced in this document are incorporated herein. If any such policy or addenda conflicts with any terms of this Agreement, said policy or addenda shall control.