

MASTER MATERIALS SUPPLY CONTRACT
BETWEEN
PACIFICORP
AND
MARMON UTILITY, LLC DBA HENDRIX AERIAL CABLE SYSTEMS
FOR
AERIAL CABLE SYSTEM DESIGN, SUPPLY, AND INSTALL

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PARTIES

The Parties to this Master Materials Supply Contract (this “Master Contract”) are **PACIFICORP** (hereinafter “Company”) whose address is 825 NE Multnomah Street, Portland, Oregon 97232, and Marmon Utility, LLC DBA Hendrix Aerial Cable Systems (hereinafter “Supplier”), whose address is 53 Old Wilton Rd., Milford, NH 03055. Company and Supplier are hereinafter sometimes collectively referred to as “Parties” and individually as a “Party,” as the context may require.

ARTICLE 1. DEFINITIONS

As used in this Master Contract and any individual Contract entered into hereunder, the following terms have the meanings set forth below. Unless another meaning is specifically required by another Contract Document, when the following capitalized terms are used in any Contract Document, such terms shall refer to the definitions set forth herein. All exhibits listed in the Table of Contents shall form a part of this Master Contract whether or not referenced in the master terms and conditions below.

Business Day shall mean a day, other than a Saturday, Sunday or holiday, on which banks are generally open for business. Any generic references to “days” shall be deemed to mean a calendar day and not a Business Day; provided, however, that if the final “day” of any period specified in the Contract falls on a day other than a Business Day, then the period shall be construed so as to end on the next succeeding Business Day.

BES Cyber System Information (BCSI) shall mean information concerning CIPS Covered Assets that: (i) relates to the production, generation or transmission of energy; (ii) could be useful to a person planning an attack on critical infrastructure; and (iii) provides strategic information beyond the geographic location of the critical asset, and which is identified as BCSI by Company. BCSI also includes any information concerning CIPS Covered Assets that has been identified by Company as Critical Infrastructure Information (or CII).

CIPS Covered Assets shall mean any assets identified by Company as “critical assets,” “critical cyber assets,” “BES assets,” “BES cyber assets,” or “BES cyber systems,” as those terms are defined in the North American Electric Reliability Corporation (NERC) Glossary of Terms. “BES” refers to the “Bulk Electric System” as defined by NERC..

Company’s Facilities shall mean any facilities owned, operated or otherwise controlled by Company which require Company authorization to obtain access.

Deliverables shall mean all drawings, manuals, calculations, specifications, maps, sketches, designs, tracings, notes, reports, data, computer programs, models, plans, programs, procedures, protocols, samples and other documents and deliverables that Supplier is to furnish to Company in connection with the Materials, all as set forth in the Contract Documents.

Emergency shall mean conditions under which, without effecting an immediate repair or replacement: (i) life, health, or safety would be endangered by operation of Company’s assets; (ii) Company’s assets would be unavailable for commercial use; or (iii) Company’s assets could not be operated, or demonstrated to be operating, in compliance with a) environmental regulations; b) regulations, policies or procedures issued by governmental or regulatory authorities; or c) prudent utility practice.

Force Majeure Event shall mean a delay caused by any national or general strikes (but excluding strikes relating solely to the work force of Company, Supplier or a Subcontractor), fires, riots, acts of God, acts of the public enemy, floods, acts of terrorism, unavoidable transportation accidents or embargoes, or other events which are: (i) not reasonably foreseeable as of the date the applicable Purchase Order is released; (ii) attributable to a cause beyond the control and without the fault or negligence of the Party incurring such delay; and (iii) the effects of which cannot be avoided or mitigated by the Party claiming such Force Majeure Event through the use of commercially reasonable efforts. The term Force Majeure Event does not include a delay caused by seasonal weather conditions, general economic conditions, changes in the costs of goods or Supplier’s failure to place orders for

equipment, materials or other items sufficiently in advance to ensure timely delivery of all Materials and timely performance of all Work.

Hazardous Materials shall mean any chemical, substance or material designated or regulated as a “hazardous material,” “hazardous waste,” “toxic substance” or any similar designation (including petroleum products) by any national, federal, state, provincial, or local government (including any agency, authority, department, instrumentality or other subdivision of the foregoing) having or asserting environmental regulatory jurisdiction with respect to the substance or material, the Work or the Work Site.

Lead Time shall mean the maximum production time for any specific item of Material from the date of Supplier’s confirmed receipt of Company’s Purchase Order, as such Lead Times may be stated in Exhibit B.

Material(s) shall mean all products, equipment, materials, goods, parts, associated hardware, documentation, spare parts, data packages, software and associated incidental services to be delivered or provided to Company, by Supplier, under the Contract Documents.

Material Adverse Change shall mean, with respect to Supplier, if Supplier, in the reasonable opinion of Company, has experienced a material adverse change in Supplier’s financial condition or Supplier’s ability to fulfill its obligations under the Contract including, but not limited to, any such change that results in its inability to satisfy ARTICLE 12, CREDIT REQUIREMENTS or ARTICLE 13, SECURITY, including any event or circumstance that would give Company the right to terminate for cause pursuant to ARTICLE 38, TERMINATION FOR CAUSE.

Minimum Order Quantity shall mean the minimum quantity of any line item of Materials that can be ordered and delivered by Supplier on any single Purchase Order.

Net Replacement Costs shall mean the “cost to cover” remedy available to Company in the event of a default by Supplier under the Contract. The Net Replacement Costs shall be calculated by: (i) subtracting the price payable under the Contract from the costs incurred by Company to obtain an alternative supplier to furnish the Materials and perform the Work that Supplier was otherwise obligated to provide; and (ii) adding a sum for additional managerial, administrative, and other reasonable costs (internal and third-party) Company incurs as a result of Supplier’s default.

Notice shall mean a formal written communication which, pursuant to the Contract, one Party must deliver to the other in order to invoke a Contract right set forth herein.

Personnel shall mean the employees, representatives or agents of Supplier, its Subcontractors, and any independent contractors who are employed or engaged to perform Work or provide all or part of the Materials under the Contract Documents.

Purchase Order shall mean the document(s) containing the information set forth in ARTICLE 3, PURCHASE ORDERS, which is used to order Materials or engage Supplier to perform Work pursuant to the terms and conditions set forth in this Master Contract.

Sensitive Personnel shall mean all Personnel with authorized unescorted physical access or authorized cyber access to Company’s CIPS Covered Assets.

Specification(s) shall mean any and all drawings, specifications, product descriptions and/or other requirements setting forth Supplier’s obligations with respect to the Materials and Work as detailed in Exhibit A, or in any of the Contract Documents relating to a specific Materials order.

Subcontractor shall mean any sub-supplier or contractor, of any tier, having an agreement with Supplier to perform a portion of Supplier’s obligations under the Contract Documents.

Term shall mean the period commencing upon the full execution of the Contract and continuing thereafter until December 31, 2019 unless earlier terminated as provided herein.

Unescorted Personnel shall mean all Personnel with authorized unescorted physical access to Company’s Facilities.

Work shall mean all obligations, duties, requirements and responsibilities for the successful supply and delivery of the Materials and associated Deliverables, including any labor or other services for the installation and commissioning of the Materials, if applicable, in accordance with the Contract Documents.

Work Site shall mean the location or locations where the Materials are to be delivered and any property upon which any Work is to be performed after delivery.

ARTICLE 2. DESCRIPTION OF WORK

Upon Supplier's receipt of a Purchase Order, Supplier shall supply and deliver to Company the Materials listed or described in Exhibit A in accordance with the Contract Documents and perform any associated Work specified therein. Each Purchase Order issued by Company to Supplier shall be placed subject to, and in accordance with, the general terms and conditions set forth in this Master Contract, including any Lead Times and Minimum Order Quantities set forth in Exhibit B.

Company is under no obligation to purchase any amount of Materials under this Master Contract, and this Master Contract shall not be construed in any way as granting to Supplier an exclusive right to provide any or all of the Materials or perform Work contemplated in the Contract Documents. The use of Supplier for the purchase of Materials or perform Work is discretionary, and Company expressly reserves the right to purchase similar or identical items from alternative suppliers during the Term, in Company's sole discretion. The intent of this Master Contract is to establish master terms and conditions for the benefit of Company.

Supplier shall maintain inventory levels of Materials to meet Company's estimated Materials purchase forecasts, as such may be provided to Supplier from time to time.

ARTICLE 3. PURCHASE ORDERS

Each Purchase Order will identify and/or describe: (i) the Materials and Work required by Company; (ii) the guaranteed delivery date and any other critical completion milestones, including any liquidated damages to be assessed in the event of Supplier's failure to timely perform; (iii) agreed pricing (if any) that modifies Exhibit B; (iv) the delivery location and agreed delivery terms that modify ARTICLE 16, DELIVERY (if any); (v) whether the performance of such Work will require access to Company CIPS Covered Assets; (vi) the designated representatives for each Party with respect to the Contract; (vii) order-specific invoicing instructions; and (viii) any other order-specific terms and conditions. These order-specific terms and conditions may be stated in or attached to the Purchase Order or incorporated by reference. The terms and conditions of this Master Contract shall apply to each Purchase Order and shall form a unique Contract, as supplemented by the order-specific terms and conditions of the other Contract Documents. The Contract Documents shall, together, constitute the entire agreement between the applicable Company and Supplier with respect to any specific Materials and/or Work. A Purchase Order will be issued through the applicable Company's procurement system and will reference this Master Contract. Within one (1) Business Day of receipt, Supplier shall acknowledge all Purchase Orders placed by Company and accept or reject the Purchase Order as placed by Company. Any Purchase Order that is not rejected by Supplier within one (1) Business Day of receipt from Company will be deemed to have been accepted and deemed confirmed by Supplier. Company may also require that a mutually executed document be used in lieu of, or in addition to, a Purchase Order. As used throughout this Master Contract, the term "Purchase Order" shall be construed to include any such mutually executed document.

ARTICLE 4. PERIOD OF PERFORMANCE

The terms and conditions of this Master Contract shall be effective for Materials and/or Work ordered between January 1, 2017 and December 31, 2019, whether or not such Materials and/or Work are scheduled to be delivered and performed or are actually delivered and performed prior to the expiration of such time. The Term for each order shall be as specified in the Contract Documents. The expiration of the Term shall not impact the Parties' respective rights or obligations with respect to any such Contract. Moreover, neither the expiration of the Term nor any earlier termination of the Contract shall impact any warranties, indemnities, insurance requirements, confidentiality obligations, termination obligations, or other obligations, which by their own terms are intended to survive the completion of delivery of Materials and performance of Work, all of which shall continue in full force and effect after the termination or expiration of the Contract.

The Contract Documents shall specify a guaranteed delivery date for the Materials and may also specify other critical completion milestones with which Supplier must comply. All time and schedule requirements included within the Contract Documents are of the essence. By entering a Contract, Supplier confirms that the time and schedule stipulated in the Contract Documents are reasonable for supply of the Materials and performance of the Work. Unless otherwise excused by the terms of the Contract Documents, Supplier's failure to timely deliver the Materials or perform the Work shall result in the assessment of liquidated damages, to the extent such liquidated damage amounts are set forth in such Contract Documents. Where no liquidated damages are specified, Company shall have all of the rights and remedies available at law and in equity with respect to late delivery. Supplier shall provide Notice to Company immediately once Supplier becomes aware that it will not be able to deliver the Materials and/or perform the Work in full per the confirmed schedule dates stipulated by Company.

ARTICLE 5. CONSIDERATION AND PAYMENT

Except as otherwise set forth in the applicable Contract Documents, prices for Materials shall be those provided in

Exhibit B. Escalation or other adjustments to pricing shall only be permitted to the extent expressly set forth in Exhibit B.

Except as otherwise set forth in the applicable Purchase Order, Supplier shall invoice Company for Materials upon or after delivery. Company will pay Supplier, as full consideration for the satisfactory performance of Supplier's obligations under this Contract, all amounts due in accordance with the Contract within sixty (60) days of receipt of properly submitted invoice(s). All invoices shall reference the applicable Contract number. Supplier shall identify and clearly set forth on the invoice any discount for early payment. The total amount of consideration payable for the Materials will be specified in the Purchase Order.

Company may offset any such payment to reflect amounts owing from Supplier to Company or its subsidiaries pursuant to this Master Contract or any other agreement between the Parties. In addition, Company may withhold all payments otherwise due Supplier until such time as Supplier has provided the Performance Security, if any, that is required by the Contract Documents.

ARTICLE 6. PROJECT TIMETABLE; MILESTONES; CRITICAL PERFORMANCE MILESTONES

Attached to each Purchase Order shall be a base-line Project Schedule setting forth the major tasks that must be completed by Supplier ("Milestones") and the completion dates for such tasks ("Milestone Completion Dates") including all design, development and other Milestones to be achieved with respect to the applicable project(s). Such base-line Project Schedule shall specify any tasks, obligations or responsibilities ("Company Obligations") which Company must perform or fulfill in order for Supplier to achieve the Milestone Completion Dates for each Milestone, and the date by which Company is to fulfill each Company obligation (the "Company Obligation Completion Date"). Certain Milestones identified in the Scope of Work and base-line Project Schedule are identified as "Critical Performance Milestones." While timely completion of each Milestone is important to the success of the Work, the occurrence of a Critical Performance Milestone by its respective Critical Performance Date is of critical importance to the completion of the Work in a timely manner consistent with Company's vital business interests. Supplier shall commit sufficient manpower and resources to ensure the completion of each Critical Performance Milestone by the appropriate Milestone Completion Date.

It is understood by the Parties that the Milestone Completion Dates for interim Milestones (that is, Milestones which are not defined as Critical Performance Milestones) are subject to adjustment by the Parties' project managers working together in the course of the Work and that a Critical Performance Milestone may only be modified by mutually agreed upon changes per ARTICLE 22, CHANGES TO CONTRACT.

Supplier shall provide Company with weekly written progress reports as more particularly described in ARTICLE 8, PROGRESS MEETINGS AND REPORTING measuring Supplier's progress and activity as compared to the base-line Project Schedule as attached to each Release. The payment of Liquidated Damages (in amounts set forth in the applicable Purchase Order), if any, pursuant to ARTICLE 21, LIQUIDATED DAMAGES and the applicable Purchase Order shall be based on Supplier's achievement or failure to achieve the applicable Critical Performance Milestones by the Milestone Completion Dates established for each such Critical Performance Milestone as set forth in the base-line Project Schedule.

ARTICLE 7. ASSIGNED PROJECT ROSTER

The Supplier shall designate key project Personnel to be approved by Company pursuant to this Article. All Personnel assigned by the Supplier to perform any of Supplier's obligations shall be fully qualified to perform the tasks assigned them.

Within ten (10) calendar days after the effective date of each Purchase Order, Supplier shall submit to Company the resume(s) of the design engineer(s) associated with the corresponding project for Company's review and approval. Upon receipt of the design engineer(s)' resume(s), Company shall have seven (7) calendar days to approve or object to Supplier's proposed design engineer(s). If Company fails to provide Supplier a written response at the end of the seven (7) calendar day period, such design engineer(s) are deemed accepted by Company. In the event Supplier intends to remove or change any design engineer(s) approved or accepted by Company as described above, Supplier will give Company fifteen (15) days advance written notice of the Supplier's intentions. Company shall give due diligence and consideration to any request by Supplier to replace such design engineer(s) and shall respond within fifteen (15) days to any such requests. Supplier shall not replace design engineer(s) without the advance written consent of Company, which consent shall not be unreasonable withheld.

Within ten (10) calendar days after the effective date of each Purchase Order, Supplier shall submit to Company the resume of the lead supervisory design engineer, who shall possess IEEE/ANSI standard design experience. Upon receipt of the lead supervisory design engineer's resume, Company shall have seven (7) calendar days to approve or object to Supplier's proposed lead supervisory design engineer. If Company fails to provide Supplier a written response at the end of the seven (7) calendar day period, such lead supervisory design engineer is deemed accepted by Company. Once approved by Company, Supplier represents and certifies that assigned lead supervisory design engineer will remain assigned to Company's project for its duration until completion of off-loading, placement, commissioning and testing of the Material at the Work Site.

ARTICLE 8. PROGRESS MEETINGS AND REPORTING

Progress meetings will be held as deemed necessary by Company. Progress meetings will be utilized to review Supplier's forecasted schedule as compared to the base-line Project Schedule and to discuss any delays, unusual conditions, or critical items which have affected or could affect the progress of the Work.

The established base-line Project Schedule is the schedule against which all activity, progress and developments tracking the progress of the manufacture, assembly and delivery of the Material will be tracked and measured. Supplier shall provide Company with a written weekly report starting the first Friday, 5:00 p.m. U.S. Pacific Time after the effective date of the Purchase Order and each Friday thereafter until the satisfactory completion of final Milestone reporting Supplier's current forecast for achievement of all Milestones, including Critical Performance Milestones, and Milestone Completion Dates as measured against the base-line Project Schedule and shall identify the calendar day's variance between Supplier's forecasted achievement of each Milestone and the Milestone Completion Date contained in the base-line Project Schedule. In addition to and along with the weekly report, once the manufacture/assembly process for the Material has commenced as a supplement to the weekly report, Supplier shall provide Company with photographic evidence of the unit manufacture/assembly progress of the Material (minimum of five (5) digital pictures with Material identification / serial number legibly displayed).

In addition to the weekly reporting requirements set forth above, within five (5) calendar days of the completion of each scheduled Milestone as set forth on the base-line Project Schedule, Supplier shall provide Company with digital photographs of the Material at the then current stage of manufacture and assembly as of the date corresponding to the Milestone Completion Date in a portable document format ("pdf" file format) or such other format as Company may agree in writing. Supplier shall provide Company a minimum of five (5) digital photographs to validate and document the achievement of the Milestone. The digital photographs shall be time and date stamped to validate the timing of the digital photograph and shall include visible, legible serial numbers, which correspond to Company's Material identification number. Upon submission to Company, Supplier certifies and warrants the accuracy and veracity of the digital photographs as validating the stage of the Material manufacture and assembly as of the Milestone Completion Date. Supplier's failure to timely provide the necessary photographic evidence to support its claim of achievement of any Milestone, including Critical Performance Milestones, shall be a reasonable basis for Company to: (a) draw upon any Performance Security set forth with respect to the Contract or any Purchase Order; or (b) withhold any payment due Supplier hereunder.

ARTICLE 9. MOST FAVORED NATION; COMPETITIVE OFFERS

If at any time during the Term, Supplier sells or offers to sell comparable quantities of similar grades of Materials as those provided hereunder or performs Work at a price lower than Supplier's price to Company then in effect or upon other terms and conditions more favorable than the terms and conditions hereof, Supplier shall promptly notify Company thereof and offer such lower price or such other more favorable terms and conditions to Company during the period in which such lower price or such other more favorable terms and conditions are in effect. Company, or a third-party appointed by Company may, from time to time, audit Supplier's books and records to verify Supplier's compliance with the foregoing.

ARTICLE 10. TAXES

The pricing for the Materials and/or Work described in Exhibit B is exclusive of all taxes to be borne by Company arising out of Supplier's performance hereunder, including without limitation sales and use taxes. Except as otherwise set forth in the applicable Contract Documents (for example, where the fixed pricing set forth in the Contract Documents includes a line item for sales and use taxes), local sales and use taxes in all states shall be paid by Supplier and invoiced as a separate line item. Notwithstanding the foregoing, Supplier is solely responsible for all import and export duties and value-added taxes related to the Materials and Work and all applicable parts or supplies. Upon request of Company, Supplier shall promptly provide to Company evidence satisfactory to Company of the payment of all applicable taxes.

ARTICLE 11. ACCOUNTING AND AUDITING

Supplier shall keep accurate, detailed and complete accounting records as may be necessary for substantiation of the Contract requirements, and all charges incurred or billed. The method of maintaining documentation shall be satisfactory to Company and in accordance with generally accepted accounting principles. Except as provided below, Company, or its audit representatives, shall have the right at any reasonable time or times to examine, audit, and copy the records, vouchers, and other source documents which relate to any claim for compensation. Such documents shall be available for examination, audit, and reproduction for three (3) years after completion or termination of the applicable Contract. The provisions of this Article do not apply to the substantiation of the pricing set forth in a fixed-price Contract; however, they do apply to termination charges, change orders, escalation, claims, amendments or other charges under any such Contracts that are determined on a basis other than fixed price.

Supplier shall assist Company with preparing necessary audit material and will allow Company to review any work papers prepared by independent auditors as allowed by professional standards. Any over-collections shall be returned within thirty (30) days from date of Notice of overcharge. Audit findings will be considered to be final for the period audited.

ARTICLE 12. CREDIT REQUIREMENTS

Supplier shall meet the requirements of either clause (i) or clause (ii) below: (i) Supplier maintains a senior unsecured debt rating from Standard & Poor's of BBB- or better; or (ii) if Supplier does not maintain a satisfactory debt rating, Supplier meets ALL of the following credit standards: a) tangible net worth ten (10) times the projected maximum liability of Supplier under the applicable Contract; b) no change in the condition of its earnings, net worth, or working capital over the last twenty-four (24) months, which would reasonably be anticipated to impair Supplier's ability to meet its obligations under the applicable Contract; and c) Supplier is not in default under any of its other agreements and is current on all of its financial obligations.

If requested by Company, Supplier shall within thirty (30) days provide Company with copies of its most recent annual and quarterly financial statements prepared in accordance with generally accepted accounting principles.

ARTICLE 13. SECURITY

In the event Supplier is unable to satisfy the credit requirements set forth in ARTICLE 12, CREDIT REQUIREMENTS at any time during the Term, or if Supplier experiences a Material Adverse Change at any time during the Term, then Supplier shall provide Company with security against defaults by Supplier under the Contract in such form and amount as may be reasonably required by Company ("Performance Security"), and pursuant to such additional agreements or instruments as may be reasonably required by Company, including but not limited to letters of credit, parent or third-party guaranties, or escrow accounts. Company may at any time, at its own discretion or pursuant to a request by Supplier, recalculate the amount of Performance Security required pursuant to this Article, in which case Company shall increase or decrease the existing amount of Performance Security, as appropriate. At no time shall the amount of Performance Security to which Company is entitled pursuant to this Article be less than Company's Net Replacement Costs. In addition, notwithstanding Supplier's ability to satisfy ARTICLE 12, CREDIT REQUIREMENTS, Company may require a specific form and amount of Performance Security with respect to any Contract and the pricing for such Performance Security shall be included within the pricing specified in the Contract Documents.

The terms of any letter of credit required by Company shall conform to the attached Exhibit C, as well as the requirements of the Contract and be issued by a bank acceptable to Company. The letter of credit shall provide for payment to Company of the letter of credit stated amount if Supplier defaults under the terms of the Contract. Company shall have the right to call the entire amount of the letter of credit if Supplier has not renewed the letter of credit thirty (30) days prior to its expiration.

Supplier's expenses of complying with additional Performance Security obligations as set forth in this Article shall be borne by Supplier.

ARTICLE 14. WITHHOLDING PAYMENT

Company may, without limiting any other rights or remedies Company may have, withhold from payment sufficient amounts which reflect the reasonable cost to repair or replace non-conforming or defective Materials or Work, or the value of any claim which Company has against Supplier under the Contract. Company may also retain from payment sufficient funds to discharge any delinquent accounts of Supplier for which liens on Company's property have been or may be filed, and Company may at any time pay therefrom for Supplier's account such amounts as are, in the reasonable opinion of Company, due thereon, including any sums due under any federal or state law.

ARTICLE 15. DESIGNATED REPRESENTATIVES AND NOTICES

Supplier shall designate a representative authorized to receive Purchase Orders and act on its behalf and shall advise Company in writing of the name, address, and telephone number of such designated representative, and shall inform Company of any subsequent change in such designation. Unless otherwise set forth in the Contract Documents, all communications to Supplier relating to the Contract and any applicable Purchase Orders shall be communicated to Supplier's designated representative.

In the Contract Documents for each order, Company shall designate a representative authorized to act on its behalf with respect to the Materials ordered and/or Work to be performed, and shall inform Supplier of any subsequent change in such designation. All communications to Company under the Contract shall be communicated to Company's designated representative.

Any formal Notice required to be delivered in writing under the terms of this Contract shall be delivered to the representative of the other Party as designated below. All formal written Notices shall be: (i) hand delivered; (ii) deposited in the mail, properly stamped with the required postage; (iii) sent via registered or certified mail; or (iv) sent via recognized overnight courier service. The Parties' addresses for purposes of Notice shall be as set forth below:

<p><u>If to Company:</u></p> <hr/> <p><u>PacifiCorp</u></p> <hr/> <p><u>825 NE Multnomah Street, Suite 1800</u></p> <hr/> <p><u>Portland, OR 97232</u></p> <hr/>	<p><u>If to Supplier:</u></p> <hr/> <p><u>Marmon Utility LLC, dba/ Hendrix Aerial Cable Systems</u></p> <hr/> <p><u>53 Old Wilton Rd.</u></p> <hr/> <p><u>Milford, NH 03055</u></p> <hr/>
<p>Attention: <u>Legal Department</u></p> <p>Telephone: <u>503-813-5000</u></p>	<p>Attention: <u>Ed Portash</u></p> <p>Telephone: <u>603-249-1207</u></p>

Either Party may change the name or address of the designated recipient of Notices by delivery of a Notice of such change as provided for in this Article.

ARTICLE 16. DELIVERY

Delivery of the Materials is a substantial and material consideration under the Contract. Unless otherwise set forth in a Purchase Order, delivery of the Materials shall be DDP (INCOTERMS 2010) to the Work Site specified in the Purchase Order, with Supplier retaining all risk, liability and responsibility, financial or otherwise, until Company receives and accepts such Materials. Materials shall be delivered free of defects and within the stipulated Lead Time.

If applicable, Supplier shall deliver Materials no earlier than the earliest allowable delivery date specified in the Contract Documents. Any delivery prior to the earliest allowable delivery date shall constitute grounds for rejecting the applicable Materials. Should Company (at its discretion) choose to accept delivery prior to the earliest allowable delivery date specified in the Contract Documents, then Company shall be entitled to recover as Contract damages any incremental storage, security, rigging, handling and other charges associated with delivery prior to the earliest allowable delivery date specified in the Contract Documents.

Materials delivered after the guaranteed delivery dates shall be subject to liquidated damages (if any) as provided in ARTICLE 21, LIQUIDATED DAMAGES and as may be specified in the applicable Contract Documents.

ARTICLE 17. SHIPPING AND HANDLING

1. Packing

- a. Supplier is responsible for ensuring that the Materials furnished under the Contract are suitably packaged to prevent damage under normal handling and transportation methods. All Materials or components thereof shall be identified with Company's stock identification number, equipment number, tag number, or other identification as may be applicable to any such Materials, or as may be required by the Contract Documents. Company reserves the right to reject any Materials that are not properly labeled and identified.
- b. Any Materials or components thereof that might otherwise be lost shall be boxed or wired in bundles and plainly marked for identification. All un-palletized deliveries shall be delivered with a gross weight less than forty (40) pounds. Any shipment containing, but not limited to, boxes, Materials, and components with a single gross weight limit which exceeds forty (40) pounds shall be palletized, with all boxes, Materials, or components securely attached to the pallet. All parts exceeding one thousand (1000) pounds gross weight shall be prepared for shipment by palletizing with slings or harness for handling by crane. Boxed parts, where it is unsafe to attach slings to the box, shall be packed on pallets with slings or harness attached to the pallet or part, the slings or harness shall be so attached to readily allow ease in attachment to the hoisting equipment. Company reserves the right to reject any palletized shipment of Materials that do not comply with the foregoing requirements or which Company deems to be unsafe to lift or otherwise unpack.
- c. At least forty-eight (48) hours prior to the shipment of any Materials, Supplier shall notify Company of shipping information, including shipping date, date of Materials delivery, and the designated carrier.

2. Shipment Routing

- a. Prior to the shipment of any Materials, Supplier shall become knowledgeable as to the transportation conditions, such as clearances and restrictions, height and width, bridge load limits and other limitations or requirements affecting transportation of the Materials. Such limitations, requirements or the lack of transportation facilities shall not become the basis for claims or damages or for an extension of the guaranteed delivery dates.

ARTICLE 18. RETURN OF MATERIALS

Supplier shall accept Materials for return to Supplier inventory without charge to Company when the following conditions are met:

- a. The Materials are not unique to Company, are returned in original packaging and in an unused condition, and the return to Supplier by Company was within six (6) months of Company's receipt of the same;
- b. Costs for return logistics to Supplier are to the account of Company; and
- c. Such Materials have been stored by Company in accordance with Supplier provided environmental storage conditions or, in the event Supplier fails to provide environmental storage guidelines, in accordance with generally accepted storage guidelines for such Materials.

ARTICLE 19. RECYCLING OF CONTAINERS AND REELS

Supplier and Company agree that containers and reels make up a significant and avoidable cost within the supply chain. Supplier and Company agree that an exchange or rotatable program for containers and reels will allow both Parties to remove unnecessary cost in the supply chain. Accordingly, Supplier and Company shall develop guidelines on returning containers and reels to Supplier for recycling and/or using container-less or reel-less best practices. The Parties agree that Supplier shall credit Company the cost of the returned reels and containers, if applicable, from the next invoice submitted. Supplier shall retrieve empty reels and containers from Work Sites within ten (10) Business Days of request by Company or upon delivery of new Materials, whichever is sooner.

ARTICLE 20. WARRANTY

Supplier warrants that the Materials (which for purposes of this Article shall include any Deliverables or Work furnished in conjunction with the Materials) shall conform to the Specifications (including all inspection and testing criteria as defined by Company in the Specifications), to any other requirements set forth in the Contract Documents, and to any additional requirements set forth in drawings, samples, descriptions and other Deliverables furnished pursuant to the Contract (to the extent that such additional requirements do not conflict with the Specifications). Supplier further warrants that the Materials shall be free from defects and shall be suitable for the use specified. Supplier further warrants that the Materials shall be delivered free of any rightful claims, demands, liens or encumbrances whatsoever.

The foregoing warranties are not intended as a limitation, but are in addition to all other express warranties set forth in the Contract and such other warranties as are implied by law, custom, and usage of trade.

Supplier shall repair or replace any Materials that fail to meet the foregoing warranties. Supplier shall re-perform any Work that fails to meet the foregoing warranties. If the cost of the warranty repair calls for the de-installation and removal of the Materials, Company and Supplier must mutually agree to the method of remediation (i.e., repair or replacement). Supplier will be responsible for all costs associated with de-installation, removal, reinstallation, disposal and transportation and all other costs related to a warranty failure of the Materials.

These warranties shall remain in effect for the period specified in the Contract Documents or, if no period is specified in the Contract Documents, for a period of five (5) years following receipt and acceptance by Company of the applicable Materials and/or satisfactory completion of the Work. Supplier warrants that any repaired or replaced Materials and any re-performed Work will meet the warranty requirements of this Article for a period equal to the initial warranty period, such "re-warranty period" to commence upon Company's acceptance of such repair, replacement or re-performance.

If Supplier fails to promptly make any repair, replacement or re-performance as required herein, Company (which, for purposes of this provision, includes agents or contractors of Company) may, at its sole discretion, conduct such necessary remedial work at Supplier's expense. Supplier cannot void the warranty for repair, replacement or re-performance performed under these circumstances. Provided that such repair, replacement or re-performance is conducted in a reasonable manner and with workmanship and care consistent with industry standards, Supplier shall reimburse Company for the cost of any warranty repair, replacement or re-performance self-performed by Company or by its agents or contractors.

If any Materials fail to meet the foregoing warranties, Company shall have the right, at its sole discretion and at Supplier's cost, to self-perform (including the use of agents or contractors) Emergency replacements or repairs as Company deems necessary to mitigate risks to persons and property and to minimize on-going production losses. Company agrees to notify Supplier of these Emergency repairs or replacements as soon as practicable. Supplier cannot void the warranty for repairs or replacements performed under these Emergency circumstances. Provided that the Emergency repairs or replacements are performed in a reasonable manner and with workmanship and care measured by the industry standards, Supplier shall reimburse Company for the cost of any warranty replacements or repairs made by Company necessitated by an Emergency.

ARTICLE 21. LIQUIDATED DAMAGES

If Supplier fails to deliver the Materials or perform the Work by the guaranteed date specified in the Contract Documents, Company will incur some degree of damages. The Parties expressly acknowledge and agree that it would be difficult or impossible to determine with absolute precision the amount of damages that would be incurred by Company as a result of Supplier's failure to deliver the Materials and perform the Work in accordance with and within the time specified in Contract Documents. The Parties accordingly agree that certain Contracts may include provisions for liquidated damages. To the extent that liquidated damages are established by the Contract Documents, the Parties agree that such liquidated damages are in lieu of actual damages for Supplier's failure to meet the guaranteed performance date and are the Parties' reasonable estimate of fair compensation for the losses that are reasonably anticipated to be incurred by Company from the failure to timely perform in accordance with the guaranteed dates and milestones specified in the Contract Documents (the Parties having taken into account all factors that they deem appropriate, including all of the respective rights and obligations under the Contract), and do not constitute a penalty. Any liquidated damages shall be specified within the Contract Documents. If applicable, the payment of liquidated damages (and, to the extent applicable, termination of the Contract by Company for default in accordance with the terms hereof) shall be Supplier's sole and exclusive obligations and Company's sole and exclusive remedy with respect to Supplier's failure to deliver the Materials or perform the Work in accordance with the guaranteed dates and milestones set forth in the Contract Documents (but only to the extent that the Contract Documents establish liquidated damages). The sole and exclusive remedy provision set forth in this Article applies only to claims related to untimely performance and not to any other damage claims Company may have under the Contract.

In the event that the provisions for the payment of liquidated damages as specified in the Contract Documents are held to be unenforceable as a matter of law, Supplier shall be liable for all actual damages that may be available at law for late delivery, including loss of profit or income, loss of use, loss or production, loss of contracts, incidental damages and consequential damages, but subject to the maximum amounts, which would have been payable if the liquidated damages provision had been enforceable.

ARTICLE 22. CHANGES TO THE CONTRACT

Company may at any time in writing direct changes and/or additions within the general scope of the Contract, direct the omission of or variation of Materials and/or Work, or alter the delivery schedule. If any such direction results in a material change in the amount or character of the Materials or Work, an equitable adjustment in the price and other such provisions of the Contract Documents as may be affected shall be made and the Contract and/or any relevant Contract Documents shall be modified in writing accordingly. Any claim by Supplier for an adjustment under this Article shall be processed in accordance with the provisions of ARTICLE 35, CLAIM NOTICE AND RESOLUTION PROCEDURE.

No change shall be binding upon Company until a change order is executed by an authorized representative of Company which expressly states that it constitutes a change order to the Contract. THE ISSUANCE OF INFORMATION, ADVICE, APPROVALS, OR INSTRUCTIONS BY ANYONE OTHER THAN THE AUTHORIZED COMPANY REPRESENTATIVE SHALL NOT CONSTITUTE AN AUTHORIZED CHANGE ORDER PURSUANT TO THIS ARTICLE.

Any changes in Materials to be delivered or Work to be performed shall apply on the specific Contract pursuant to which the Materials and/or Work is being performed. No changes to the terms of this Master Contract shall be binding on Company unless agreed to in writing by an authorized representative of Company, which writing expressly states that it is an amendment to this Master Contract.

ARTICLE 23. INSURANCE

Without limiting any liabilities or any other obligations of Supplier, Supplier shall, prior to commencing Work, secure at its own expense and continuously maintain with insurance companies in good standing, acceptable to Company and having an A.M. Best Insurance Reports rating of A-VII or better such insurance as will protect Supplier from liability and claims for injuries and damages which may arise out of or result from Supplier's operations under the Contract and for which Supplier may be legally liable, whether such operations are by Supplier or a Subcontractor or by anyone directly or indirectly employed by any of them, or

by anyone for whose acts any of them may be liable. Supplier shall insure the risks associated with the Work and the Contract with minimum coverage and limits as set forth below:

Workers' Compensation. Supplier shall comply with all applicable workers' compensation laws and shall furnish proof thereof satisfactory to Company prior to commencing Work. If Work is to be performed in Washington or Wyoming, Supplier will participate in the appropriate state fund(s) to cover all eligible employees and provide a stop gap (employer's liability) endorsement. Coverage should also provide applicable federal regulations (including, without limitation, FELA, USL&H and the Jones Act).

Employers' Liability. Supplier shall maintain employers' liability insurance with limits not less than \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 disease policy limit.

Commercial General Liability. Supplier shall maintain commercial general liability insurance on the most recently approved ISO policy form, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate (on a per location and/or per job basis) and shall include the following coverage:

- a. Premises and operations coverage
- b. Independent contractor's coverage
- c. Contractual liability
- d. Products and completed operations coverage, maintained for at least 2 years for post-completion losses
- e. Coverage for explosion, collapse, and underground property damage
- f. Broad form property damage liability
- g. Personal and advertising injury liability, with the contractual exclusion removed
- h. Sudden and accidental pollution liability, as applicable

Business Automobile Liability. Supplier shall maintain business automobile liability insurance on the most recently approved ISO policy form, or its equivalent, with a minimum single limit of \$1,000,000 each accident for bodily injury and property damage including sudden and accidental pollution liability, with respect to Supplier's vehicles whether owned, hired or non-owned, assigned to or used in the performance of the Work. If applicable, the automobile liability policy will include pollution liability coverage equivalent to that provided under the ISO Pollution Liability Broadened Coverage for Covered Autos endorsement (CA9948) and Motor Carrier Act endorsement (MCS90) shall be attached.

Umbrella or Excess Liability. Supplier shall maintain umbrella or excess liability insurance with a minimum limit of \$5,000,000 each occurrence/aggregate where applicable on a following form basis to be excess of the insurance coverage and limits required in employers' liability insurance, commercial general liability insurance and business automobile liability insurance above. Supplier shall provide Notice to Company, if at any time the full umbrella limit required under this Contract is not available, and will purchase additional limits, if requested by Company.

Professional Liability. Supplier shall maintain professional liability insurance covering damages arising out of negligent acts, errors, or omissions committed by Supplier in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Supplier shall maintain this policy for a minimum of two (2) years after completion of the Work or shall arrange for a two (2) year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of Work or Services under this Contract and caused by any error, omission- for which the Supplier is held liable.

Transit and Installation. Supplier shall maintain transit insurance covering all worldwide air, land and water shipments.

Transit insurance shall include loading and unloading if such Work is conducted by Supplier or any Subcontractor, and offsite storage, if applicable. Transit insurance shall be provided on an all risk basis to include direct physical loss or damage, including but not limited to loss caused by war, terrorism, strike, riot and civil commotion, and fabrication/repairs. Losses resulting from damage during transit shall be provided to cover full replacement cost of the Materials being shipped and provide valuation of not less than CIF plus 10%.

Deductibles shall not be greater than \$100,000 for any loss. Supplier shall have obtained such transit or installation coverage on or prior to the date on which the exposure to the risk arises. Company will be named loss payee or additional named insured for its interest in the covered property.

Rigger's Liability. To the extent rigging or cranes will be used to complete this Work, Supplier shall maintain riggers or crane operators liability insurance, with a limit correlating specifically with the replacement value of property being lifted and no less than \$500,000; such requirement may be met by Supplier with a Subcontractor's insurance coverage.

Company does not represent that the insurance coverage specified herein (whether in scope of coverage or amounts of coverage) are adequate to protect the obligations of Supplier, and Supplier shall be solely responsible for any deficiencies thereof.

Except for workers' compensation, the policies required herein shall include provisions or endorsements naming Company, its parent, divisions, affiliates, subsidiary companies, co-lessees, co-venturers, officers, directors, agents, employees, servants and insurers as additional insureds or loss payees, as applicable to specific insurance coverage. The commercial general liability additional insured endorsement shall be ISO Form CG 20 10 and ISO Form CG 20 37, or their equivalents.

To the extent of Supplier's negligent acts or omissions, all policies required by this Contract shall include: (i) provisions that such insurance (including self-insurance) is primary insurance with respect to the interests of Company and that any other insurance maintained by Company is excess and not contributory insurance with the insurance required hereunder; and (ii) provisions that the policy contain a cross liability or severability of interest clause or endorsement in the commercial general liability and automobile liability coverage. Unless prohibited by applicable law, all required insurance policies shall contain provisions that the insurer will have no right of recovery or subrogation against Company, its parent, divisions, affiliates, subsidiary companies, co-lessees or co-venturers, agents, directors, officers, employees, servants, and insurers, it being the intention of the Parties that the insurance as effected shall protect all of the above-referenced entities evidenced by waiver of subrogation wording.

A certificate of insurance shall be furnished to Company confirming the issuance of such insurance prior to commencement of Work by Supplier. Should a loss arise during the Term of the Contract that may give rise to a claim against Supplier and/or Company as an additional insured, Supplier shall deliver to Company (or cause to be delivered to Company) certified copies of such insurance policies. Supplier shall not cancel or reduce limits of liability without (i) ten (10) calendar days prior written Notice to Company if canceled for nonpayment of premium; or (ii) thirty (30) calendar days prior written Notice to Company if canceled for any other reason. Lack of notification shall be considered a material breach of this Contract. Supplier shall require Subcontractors who perform Work at the Work Site or other designated delivery locations to carry liability insurance (auto, commercial general liability and excess) and workers' compensation/employer's liability insurance commensurate with their respective scopes of work. Supplier shall remain responsible for any claims, lawsuits, losses and expenses (including defense costs) that exceed any of its Subcontractors' insurance limits and for uninsured claims or losses.

ARTICLE 24. INDEMNIFICATION

SUPPLIER SPECIFICALLY AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS COMPANY AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (HEREINAFTER COLLECTIVELY "INDEMNITEES") AGAINST AND FROM ANY AND ALL CLAIMS, DEMANDS, SUITS, LOSSES, COSTS AND DAMAGES OF EVERY KIND AND DESCRIPTION, INCLUDING ATTORNEYS' FEES AND/OR LITIGATION EXPENSES, BROUGHT OR MADE AGAINST OR INCURRED BY ANY OF THE INDEMNITEES RESULTING FROM OR ARISING OUT OF THE ACTS, ERRORS OR OMISSIONS OF SUPPLIER, ITS EMPLOYEES, AGENTS, REPRESENTATIVES OR SUBCONTRACTORS OF ANY TIER, THEIR EMPLOYEES, AGENTS OR REPRESENTATIVES IN THE PERFORMANCE OR NONPERFORMANCE OF SUPPLIER'S OBLIGATIONS UNDER THE CONTRACT OR IN ANY WAY RELATED TO THE CONTRACT. THE INDEMNITY OBLIGATIONS UNDER THIS ARTICLE SHALL INCLUDE WITHOUT LIMITATION:

- A. LOSS OF OR DAMAGE TO ANY PROPERTY OF COMPANY, SUPPLIER OR ANY THIRD PARTY;
- B. BODILY INJURY TO, OR DEATH OF ANY PERSON(S), INCLUDING WITHOUT LIMITATION EMPLOYEES OF COMPANY, OR OF SUPPLIER OR ITS SUBCONTRACTORS OF ANY TIER; AND
- C. CLAIMS ARISING OUT OF OR RELATED TO WORKERS' COMPENSATION, UNEMPLOYMENT COMPENSATION, OR SIMILAR SUCH LAWS OR OBLIGATIONS APPLICABLE TO EMPLOYEES OF SUPPLIER OR ITS SUBCONTRACTORS OF ANY TIER.

SUPPLIER'S INDEMNITY OBLIGATIONS OWING TO INDEMNITEES UNDER THIS ARTICLE ARE NOT LIMITED BY ANY APPLICABLE INSURANCE COVERAGE IDENTIFIED IN ARTICLE 23. INSURANCE. SUPPLIER'S INDEMNITY OBLIGATION UNDER THIS ARTICLE SHALL NOT EXTEND TO ANY LIABILITY CAUSED BY THE SOLE NEGLIGENCE OF ANY OF THE INDEMNITEES.

FOR WORK PERFORMED IN THE STATES OF OREGON AND WASHINGTON, AND TO THE LIMITED EXTENT THAT THIS CONTRACT REQUIRES SUPPLIER TO PERFORM WORK MEETING THE STATUTORY DEFINITION OF "CONSTRUCTION" IN EITHER OF THE ABOVE-REFERENCED STATES, SUPPLIER'S INDEMNITY OBLIGATIONS UNDER THIS ARTICLE SHALL EXTEND ONLY TO LIABILITY FOR DAMAGE ARISING OUT OF DEATH OR BODILY INJURY TO PERSONS OR DAMAGE TO PROPERTY TO THE EXTENT THAT THE DEATH OR BODILY INJURY TO PERSONS OR DAMAGE TO PROPERTY ARISES OUT OF THE FAULT OF SUPPLIER, OR THE FAULT OF SUPPLIER'S AGENTS, REPRESENTATIVES OR SUBCONTRACTORS.

TO THE EXTENT APPLICABLE, SUPPLIER SPECIFICALLY AND EXPRESSLY WAIVES ANY IMMUNITY UNDER EITHER INDUSTRIAL INSURANCE, TITLE 51, RCW, OR WORKERS' COMPENSATION LAW, CHAPTER 656, ORS, AND ACKNOWLEDGES THAT THIS WAIVER WAS MUTUALLY NEGOTIATED BY THE PARTIES HEREIN.

THE INVALIDITY, IN WHOLE OR IN PART, OF ANY OF THE FOREGOING PARAGRAPHS WILL NOT AFFECT THE REMAINDER OF SUCH PARAGRAPH OR ANY OTHER PARAGRAPHS IN THIS ARTICLE.

ARTICLE 25. ALLOCATION

In the event of a partial failure of Supplier's sources of supply or limitations on available labor resources, Supplier will first meet all of Company's requirements hereunder prior to any allocation among other customers.

ARTICLE 26. SUPPLIER'S PERSONNEL; DRUGS, ALCOHOL AND FIREARMS

Supplier shall employ in the performance of the Work only persons qualified for the same. Supplier shall at all times enforce strict discipline and good order among its employees and the employees of any Subcontractor of any tier. Supplier shall not permit or allow the introduction or use of any firearms, illegal drugs or intoxicating liquor upon a Work Site. Supplier shall immediately remove from the Work, whenever requested by Company, any person considered by Company to be incompetent, insubordinate, careless, disorderly, in violation of the above restriction on firearms, illegal drugs or intoxicating liquor, or under the influence of illegal drugs or intoxicating liquor, and such person shall not again be employed in the performance of the Work herein without the prior written consent of Company.

ARTICLE 27. ACCESS TO COMPANY'S FACILITIES

27.1 Requirements for Unescorted Personnel and Sensitive Personnel

Access to Company controlled areas is granted on an as-needed basis only in accordance with Company's internal badge and access policy. Additionally, Company is required to comply with certain of NERC's federally mandated Critical Infrastructure Protection Standards (CIPS) adopted to ensure that electric utilities, as part of the nation's critical infrastructure, are able to sustain and secure against vulnerabilities that may threaten the bulk electric system and the utilities that operate it. Company shall specify in the Purchase Order or Scope of Work whether or not the Work under this Contract requires either: (i) authorized unescorted physical access to Company's Facilities (*i.e.*, use of Unescorted Personnel); or (ii) authorized unescorted physical access or authorized cyber access to Company's CIPS Covered Assets (*i.e.*, use of Sensitive Personnel). For all Personnel who require either such access, Supplier shall:

- a. Conduct, at Supplier's cost and expense, a Personnel risk assessment to include at a minimum an identity verification and seven-year criminal background check for the current residence and past locations of residence of all Unescorted Personnel and Sensitive Personnel. All background checks will be conducted in accordance with federal, state, provincial and local laws, and subject to existing collective bargaining unit agreements or other agreements, if any. A background check completed within two (2) years prior to the date the Supplier signed a Contractor/Vendor Information Form for each such person will be considered valid. Following the initial background check, updates shall be performed no less frequently than every seven (7) years or upon request by Company. In the event Company notifies Supplier of impending expiration of the background check of any Unescorted Personnel or Sensitive Personnel, Supplier shall provide an updated Contractor/Vendor Information Form reflecting a refreshed background check within twenty (20) days of receipt of the Notice in order to avoid revocation of such person's access. An appropriate authorization form must be signed by each of the Unescorted Personnel and Sensitive Personnel prior to a background check being conducted, acknowledging that the background check is being conducted and authorizing the information obtained to be provided to Company;
- b. Ensure that Unescorted Personnel and Sensitive Personnel have passed the background checks outlined in subsection 27.1(a) prior to requesting unescorted physical access and/or cyber access to Company's Facilities and/or CIPS Covered Assets, as applicable. In the event any such person: (i) is currently under indictment for a crime punishable by imprisonment for a term exceeding one year; (ii) has been convicted (within the past seven years) in any court of a crime punishable by

imprisonment for a term exceeding one year; (iii) is currently a fugitive of justice; or (iv) is an alien illegally or unlawfully in the United States, such person shall be considered a “restricted person” and may not be Unescorted Personnel or Sensitive Personnel without prior written consent from Company. In the event any such person’s background check reveals any residency gap of six (6) consecutive months or more, Contractor shall review, evaluate, and document any such residency gap to ensure that it does not pose a risk to Company’s CIPS Covered Assets, prior to making a determination that Unescorted Personnel and Sensitive Personnel have passed the background check;

c. Ensure that Unescorted Personnel and Sensitive Personnel complete Company provided or approved initial CIPS and Standards of Conduct compliance training prior to requesting unescorted physical access and/or cyber access to Company’s Facilities and/or CIPS Covered Assets, as applicable;

d. Ensure that Unescorted Personnel and Sensitive Personnel have passed Supplier’s drug and alcohol exam and are in compliance with Supplier’s substance abuse/drug and alcohol policy as outlined in **Error! Reference source not found.**SUBSTANCE ABUSE; DRUG AND ALCOHOL POLICY; and

1. Keep accurate and detailed documentation to confirm completion dates for background checks and all CIPS and Standards of Conduct compliance training (initial and annual training, to the extent applicable), and certify to Company such documentation by completing a Contractor/Vendor Information Form, attached as Exhibit E hereto, for each Unescorted Personnel or Sensitive Personnel. Company has the right to audit Supplier’s records supporting each Contractor/Vendor Information Form submitted to Company and to verify that the requisite background checks and CIPS and Standards of Conduct compliance training were performed. Supplier shall provide Company with all requested records supporting Contractor/Vendor Information forms within a reasonable time after receiving such a request, and in the form requested by Company, but not longer than three (3) business days following the date of such request.

e. Supplier shall not allow any Unescorted Personnel or Sensitive Personnel who have not met the foregoing requirements of this subsection 27.1 to perform Work, unless Supplier has received prior written consent from Company.

27.2 Additional Access Requirements Specific to Sensitive Personnel

In addition to the access requirements outlined in subsection 27.1, with respect to all Sensitive Personnel, Supplier also shall:

a. Ensure that Sensitive Personnel (and any Personnel with access to BCSI) are informed of and comply with Company’s BCSI requirements contained in any confidentiality agreement previously executed by Supplier as well as the BCSI requirements set forth herein in **Error! Reference source not found.**CONFIDENTIAL INFORMATION; NONDISCLOSURE;

b. In addition to the initial CIPS and Standards of Conduct compliance training requirement outlined in subsection 27.1(c), ensure that Sensitive Personnel complete annual Company provided or approved CIPS compliance training within Company’s prescribed training window; and

c. Immediately upon either (i) Sensitive Personnel termination actions or (ii) all other changes in the status of Sensitive Personnel who no longer require access, report such termination or change in status to the Company’s Enterprise Service Desk (ESD). The ESD is available 24 hours a day by calling either (503) 813-5555 or (801) 220-5555.

Supplier shall not allow any Sensitive Personnel who have not met the foregoing requirements of this subsection 27.2 to perform Work, unless Supplier has received prior written consent from Company.

ARTICLE 28. SUBSTANCE ABUSE; DRUG AND ALCOHOL POLICY

- a. Supplier shall have and ensure compliance with a substance abuse/drug and alcohol policy that complies with all applicable federal, state and/or local statutes or regulations. Supplier shall subject each of the Personnel to a drug test at Supplier’s sole cost and expense. Such drug test shall, at a minimum, be a five (5) Panel Drug Test, which should be recognizable at testing labs as a “SamHSA5 panel at 50NG – THC cut-off”.
- b. For any Personnel who have had a recent drug test, such recent drug test shall be documented pursuant to the previous Article. Supplier warrants that Supplier and the Personnel are in compliance with Supplier’s substance abuse/drug and alcohol policy.

- c. During the course of Work performed under this Contract, Supplier shall keep accurate and detailed documentation of its drug policy and Personnel drug tests, which it shall submit to Company upon request.
- d. Supplier shall designate one person to be responsible for compliance with the requirements of this Article and all reporting and inquiries shall be made to a duly authorized representative of Company in a timely manner.

ARTICLE 29. DEPARTMENT OF TRANSPORTATION

Supplier shall ensure Department of Transportation compliance, including but not limited to valid driver's license, equipment inspections, hours of service and all appropriate documentation for any Personnel who may drive while performing Work under the Contract.

ARTICLE 30. BUSINESS ETHICS

Supplier, its employees, officers, agents, representatives and Subcontractors shall at all times maintain the highest ethical standards and avoid conflicts of interest in the performance of Supplier's obligations under the Contract. In conjunction with its performance of the Work, Supplier and its employees, officers, agents and representatives shall comply with, and cause its Subcontractors and their respective employees, officers, agents and representatives to comply with, all applicable laws, statutes, regulations and other requirements prohibiting bribery, corruption, kick-backs or similar unethical practices including, without limitation, the United States Foreign Corrupt Practices Act, the United Kingdom Bribery Act 2010, and Company Code of Business Conduct. Without limiting the generality of the foregoing, Supplier specifically represents and warrants that neither Supplier nor any Subcontractor employees, officers, representatives or other agents of Supplier have made or will make any payment, or have given or will give anything of value, in either case to any government official (including any officer or employee of any governmental authority) to influence his, her, or its decision or to gain any other advantage for Company or Supplier in connection with the Work to be performed hereunder. Supplier shall maintain and cause to be maintained effective accounting procedures and internal controls necessary to record all expenditures in connection with the Contract and to verify Supplier's compliance with this Article. Company shall be permitted to audit such records as reasonably necessary to confirm Supplier's compliance with this Article. Supplier shall immediately provide Notice to Company of any facts, circumstances or allegations that constitute or might constitute a breach of this Article and shall cooperate with Company's subsequent investigation of such matters. Supplier shall indemnify, defend and hold Company harmless from all fines, penalties, expenses or other losses sustained by Company as a result of Supplier's breach of this Article. The Parties specifically acknowledge that Supplier's failure to comply with the requirements of this Article shall constitute a condition of default under the Contract.

ARTICLE 31. SAFETY AND WORK SITE REGULATIONS

Supplier, when performing any Work or delivering Materials at a Work Site or other designated location, shall abide by and adhere to the applicable Work Site and safety regulations and requirements, if any, including without limitation environmental protection, loss control, dust control, safety, and security. As a continuing condition to performing Work at any Work Site, Supplier may be required to maintain a subscription with Company's third-party safety and loss information reporting service (the "Administrator"). The Administrator manages safety ratings and insurance certificates of Company's contractors. Supplier will provide safety related information as requested by the Administrator including Supplier's safety programs, OSHA documents, experience modification rates (EMR) and an insurance and safety questionnaire. A variance or exclusion to the subscription and information requirements under this paragraph may be granted by the Company's Designated Representative.

ARTICLE 32. HAZARDOUS MATERIALS

Supplier shall comply with, and cause all Subcontractors to comply with, all applicable statutes, laws, rules, regulations, codes, ordinances, decrees, writs, orders or similar requirements concerning Hazardous Materials. Without limiting the generality of the foregoing provision, Supplier shall comply with the following sections of the Company's hazard communication program:

- a. Safety Data Sheets ("SDS") for all Hazardous Materials that Supplier or its Subcontractors plan to bring to the Work Site must first be presented to Company for review by Company's applicable safety coordinator.
- b. Supplier shall furnish appropriate SDS and appropriate labels with all Hazardous Materials brought to the Work Site. All Hazardous Materials will be contained so as to meet applicable legal requirements.
- c. Supplier will cause all of its employees, and the employees of its Subcontractors, to review the SDS of Hazardous Materials and to follow the requirements of the OSHA Hazard Communication Standard.
- d. Supplier shall make the SDS of Hazardous Materials available at the Work Site and provide such SDS to Company representatives at the Work Site upon request.

Supplier is responsible for all applicable training and adherence to the OSHA Hazard Communication Standard by their employees, Subcontractors, and Subcontractor's employees.

Supplier shall be solely responsible for all losses arising from Hazardous Materials brought to the Work Site by Supplier or its Subcontractors during the performance of the Work and all losses arising from abatement activities with regard to Hazardous Materials existing on the Work Site to the extent performed as part of the Scope of Work, including the storage, transportation, processing and disposal of Hazardous Materials. Supplier shall be solely responsible for all losses related to such Hazardous Materials and/or such abatement activities including, without limitation: (i) the remediation of any environmental condition caused by such Hazardous Materials, and (ii) any fines or penalties imposed by any governmental authority having or asserting jurisdiction with respect to the Hazardous Materials or Work.

Supplier shall be solely responsible to remove all unused Hazardous Materials and generated Hazardous Materials from the Work Site upon completion of the Work and prior to demobilization, except to the extent that Company has expressly agreed otherwise.

ARTICLE 33. LIENS

Supplier hereby waives its rights to any mechanic's lien, security interest or other lien under any applicable statutes or otherwise for all Materials furnished or Work performed in connection with the Contract. Prior to Supplier's receipt of each payment under the Contract, Supplier shall (if requested by Company) deliver to Company all affidavits, lien releases, materialmen's certificates and other documents necessary to fully protect Company under the applicable lien laws. For Work to be performed in California, any lien and claim release provided by Supplier shall be in the form attached as Exhibit F. If at any time there shall be evidence of the existence of any such lien or claim for Materials furnished or Work performed by Supplier or any other Party in connection with the Contract, Company may use payments then due or to become due under the Contract to discharge such lien or satisfy such claim and may credit such amount against the payment due or to become due to Supplier.

ARTICLE 34. CONFLICTS, ERRORS, OMISSIONS, OR DISCREPANCIES IN CONTRACT DOCUMENTS

Supplier shall advise Company in writing of all conflicts, errors, omissions, or discrepancies among the various Contract Documents immediately upon discovery and prior to Supplier's performing the affected Work. If Supplier performs any Work knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to Company, Supplier shall be responsible for all necessary corrective work and shall bear all costs for correction. Anything mentioned in the Specifications and not shown on the drawings, or shown on the drawings and not mentioned in the Specifications, shall be considered as if shown or mentioned in both.

ARTICLE 35. CLAIM NOTICE AND RESOLUTION PROCEDURE

In the event Supplier has a claim or request for a time extension, additional compensation, any other adjustment of the Contract terms, or any dispute arising under the Contract (hereinafter "Claim"), Supplier shall provide Company with Notice of such Claim within five (5) Business Days following the occurrence of the event giving rise to the Claim. Supplier's failure to give Notice as required will constitute a waiver of all of Supplier's rights with respect to the Claim.

As soon as practicable after Claim notification, Supplier shall submit the Claim to Company with all supporting information and documentation. Supplier shall also respond promptly to all Company inquiries about the Claim and its basis.

Any Claim that is not disposed of by mutual agreement between the Parties shall be decided by Company, which shall provide a written decision to Supplier. Such decision shall be final unless Supplier, within thirty (30) days after such receipt of Company's decision, provides to Company a written protest, stating clearly and in detail the basis thereof. Supplier's failure to protest Company's decision within that time period shall constitute a waiver by Supplier of its right to dispute the decision. Even if a Claim arises, Supplier shall continue its performance under the terms of the Contract.

ARTICLE 36. SUSPENSION OF WORK

Company may, by Notice, direct Supplier to suspend deliveries of any or all Materials and/or performance of any or all Work under the Contract for a specified period of time. If such suspension is not caused by the fault or negligence of Supplier, Supplier will be compensated for extra costs in accordance with the provisions set forth in ARTICLE 35, CLAIM NOTICE AND RESOLUTION PROCEDURE. Upon receipt of such Notice to suspend, Supplier shall: (i) discontinue production of the applicable Materials and/or performance of the applicable Work; (ii) place no further orders or subcontracts with respect to the suspended Materials or Work; (iii) suspend all orders and subcontracts with respect to the suspended Materials or Work; (iv) protect and maintain the Materials or Work for which the suspension applies; and (v) otherwise mitigate Company's costs and liabilities for those Materials or Work suspended; provided, however, that if the suspension is due to Supplier's failure to comply with the Contract, no such payment shall be made. Upon any reinstatement of the Work by Company, the guaranteed delivery

date and other critical completion milestones will be extended for a period equal to the time lost by reason of the suspension.

ARTICLE 37. TERMINATION FOR CONVENIENCE

Company may terminate this Contract, in whole or in part, at any time without cause prior to the expiration of the Term by sending Supplier written Notice of such termination. Upon such termination Company shall pay Supplier, in full satisfaction and discharge of all liabilities and obligations owed Supplier, an equitable amount for all Materials delivered and received by Company and Work satisfactorily performed by Supplier as of the date of termination.

At any time prior to delivery of the Materials and/or performance of the Work, Company may, without cause, terminate the applicable Contract in whole or in part by sending to Supplier written electronic notice of such termination. Upon such termination Company shall pay Supplier, in full satisfaction and discharge of all liabilities and obligations owed Supplier, an equitable amount for all Materials delivered and accepted by Company and Work satisfactorily performed by Supplier as of the date of termination. Company will not be liable for Supplier's anticipated cost or profits based upon Work not yet performed as the date of termination.

ARTICLE 38. TERMINATION FOR CAUSE

1. For purposes of the Contract, a default by Supplier shall be the occurrence of any of the following:
 - a. A breach by Supplier of any of its material obligations under the Contract, if such breach continues uncured for a period of seven (7) days after receipt of Notice from Company, unless Company agrees, in writing to grant Supplier an extension of such seven (7) day period for a period of time to be determined at Company's sole discretion. In such circumstances, Company shall prescribe the new cure period in writing;
 - b. Supplier fails in any material respect to comply with any laws, ordinances or regulations pertaining to safety or environmental compliance;
 - c. A determination that any representation, statement or warranty made by Supplier in the Contract Documents or any other statement, report or document, which Supplier is required to furnish to Company, was false or misleading in any material respect;
 - d. Prior to the delivery of Materials under any Purchase Order: (i) there is a material change in the location or character of the manufacturing and/or testing facilities for such Materials that is not approved in advance by Company; or (ii) Supplier is unable to demonstrate to Company's reasonable satisfaction that the facilities (after such change) will continue to satisfy the quality assurance requirements previously communicated and confirmed via Company audits (this shall include, without limitation, the performance of any follow-up audits deemed necessary by Company);
 - e. The occurrence of any of the following: (i) the filing by or against Supplier of a proceeding under any bankruptcy or similar law, unless such proceeding is dismissed within thirty (30) days from the date of filing; (ii) the making by Supplier of any assignment for the benefit of creditors; (iii) the filing by or against Supplier for a proceeding for dissolution or liquidation, unless such proceeding is dismissed within thirty (30) days from the date of filing; (iv) the appointment of or the application for the appointment of a receiver, trustee or custodian for any material part of Supplier's assets unless such appointment is revoked or dismissed within thirty (30) days from the date thereof; (v) the attempt by Supplier to make any adjustment, settlement or extension of its debts with its creditors generally; (vi) the insolvency of Supplier; or (vii) the filing or recording of a notice of lien or the issuance or the obtaining of a levy of execution upon or against a material portion of Supplier's assets, unless such lien or levy of execution is dissolved within thirty (30) days from the date thereof; or
 - f. A Material Adverse Change has occurred with respect to Supplier and Supplier fails to provide such performance assurances as are reasonably requested by Company, including without limitation the posting and maintaining of Performance Security pursuant to ARTICLE 13, SECURITY.
2. Upon the occurrence of any such default, following the applicable process described in this Article, Company shall be entitled upon written Notice to Supplier, without any further waiting period and without limiting any of Company's other rights or remedies, to terminate the Contract, in whole or in part, or to terminate Supplier's right to proceed with the Contract affected by any such default and collect the Net Replacement Costs incurred.
3. Upon the occurrence of any such default, following the applicable process described in this Article, Company shall be entitled to seek performance by any guarantor of Supplier's obligations hereunder or draw upon any Performance Security provided for in the Contract.

4. All rights and remedies provided in this Article are cumulative, and are not exclusive of any other rights or remedies that may be available, whether provided by law, equity, statute, in any other agreement between the Parties, or otherwise. Upon the occurrence of any such default, following the applicable process described in this Article, Company shall be entitled to pursue any and all other rights and remedies, including without limitation damages, that Company may have against Supplier under the Contract or at law or in equity (provided, however that Company shall not be entitled to collect any damages at law attributable to late delivery for which the Contract specifically provides liquidated damages as an exclusive remedy).

ARTICLE 39. DELAYS

Force Majeure. Neither Party shall be liable for delays caused by a Force Majeure Event; provided, however, that both Parties agree to seek to mitigate the potential impact of any such delay. Any delay attributable to a Force Majeure Event shall not be the basis for a request for additional compensation. In the event of any such delay, the guaranteed delivery date and other critical completion milestones shall be extended for a reasonable period not exceeding the time actually lost by reason of the Force Majeure Event.

Supplier-Caused Delays. In the event that the Materials are not delivered and/or the Work is not performed by the guaranteed delivery date, and the delay is in no way related to either a Force Majeure Event or Company-caused delay, Supplier shall pay liquidated damages as indicated in the applicable Contract Documents or, if no liquidated damages are so specified, Supplier shall be responsible for all damages available at law with respect to late delivery.

Request for Time Extension. Any request for time extension or additional compensation shall be made in accordance with ARTICLE 35, CLAIM NOTICE AND RESOLUTION PROCEDURE.

ARTICLE 40. COMPLIANCE WITH LAWS

Supplier shall at all times comply with all laws, statutes, regulations, rules, executive orders, ordinances, codes, and standards applicable to Supplier's performance of the Work including, without limitation, those governing health and safety, wages, hours, employment of minors, desegregation and employment discrimination, as each may be applicable to the Work performed hereunder, and based on total anticipated dollar value of this Contract. Supplier further confirms that its employees and the employees of all Subcontractors employed under the Contract may legally work in the United States.

Without limiting the generality of the foregoing, Supplier and any Subcontractors shall abide by the requirements of 41 CFR §§60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and Subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. Supplier and any Subcontractors shall also abide by the requirements of Executive Order 11246, as amended, to develop and maintain a written affirmative action program (AAP) and Executive Orders 11625 and 13170 (utilization of disadvantaged business enterprises) and the Small Business Act. To the extent applicable, the employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this Contract.

Supplier shall indemnify, defend and hold harmless Company, its directors, officers, employees and agents from all losses, costs and damages by reason of any violation thereof and from any liability, including without limitation fines, penalties and other costs arising out of Supplier's failure to so comply.

ARTICLE 41. CONFLICT MINERALS

Supplier shall provide to Company information on the content of Materials, manufactured or contracted to be manufactured by Supplier for Company, that utilize or contain the "conflict minerals" wolframite, cassiterite, columbite-tantalite (coltan), gold and their derivative metals: tantalum, tin and tungsten. The information will be provided in a form that will allow Company to verify compliance with Section 1502 of the Dodd-Frank Act (the U.S. Conflict Minerals Law) and will include evidence of the origin or sources of the conflict minerals. The information will be submitted at or prior to the time of delivery of products in a form approved and/or designated by Company from time to time. Supplier shall obtain Company's prior written consent before providing any products to Company that include conflict minerals originated from the Democratic Republic of Congo or the nine adjoining conflict countries; Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia. Supplier shall maintain effective accounting procedures, internal controls and audit procedures necessary to record the country and place of origin of all minerals included in products provided to Company, and to verify compliance with this Article. Company shall be permitted to audit such records as reasonably necessary to confirm Supplier's compliance with this Article. Supplier

shall indemnify and hold Company harmless for all fines, penalties, expenses or other losses sustained by Company as a result of Supplier's breach of this Article.

ARTICLE 42. FEDERAL SECURITY REGISTRY

Supplier warrants that neither Supplier nor any of its Personnel are on the United States federal government's list of suspected terrorists or suspected terrorist organizations.

ARTICLE 43. INDEPENDENT CONTRACTOR

Supplier shall undertake the Work provided for in the Contract as an independent contractor, at its sole risk, and shall be solely responsible for the direction and control of all Personnel. Supplier is to determine the manner and method by which the Work shall be performed by it to conform to the Contract Documents. Company's general rights to inspect the Work and enforce the Contract shall not make, or be construed to make, such Personnel the agents or employees of Company.

ARTICLE 44. RELEASE OF INFORMATION; ADVERTISING AND PROMOTION

Supplier shall not publish, release, disclose or announce to any member of the public, press, official body or any other third party any information concerning the Contract, or any part thereof, except as required by law. Neither the names of Company, nor the Work Site shall be used in any advertising or other promotional context by Supplier.

ARTICLE 45. CONFIDENTIAL INFORMATION; NONDISCLOSURE

Definition of Confidential Information. The term "Confidential Information" means: (i) proprietary information of Company; (ii) information marked or designated by Company as confidential; (iii) BES Cyber System Information of Company; (iv) information, whether or not in written form and whether or not designated as confidential, which is known to Supplier as being treated by Company as confidential; (v) information provided to Company by third parties which Company is obligated to keep confidential (including but not limited to information relating to an identified or identifiable natural person, whether or not such information is publicly available); and (vi) information developed by Supplier in connection with the performance of this Contract.

BES Cyber System Information. Confidential Information of Company labeled as BCSI shall be protected consistent with the following requirements: (a) BCSI shall be protected at all times, either by appropriate storage or having it under the personal observation and control of a person authorized to receive it; (b) each person who works with protected BCSI is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it; (c) reasonable steps shall be taken to minimize the risks of access to BCSI by unauthorized personnel (when not in use, BCSI shall be secured in a secure container, such as a locked desk, file cabinet or facility where security is provided); (d) documents or material containing BCSI may be reproduced to the minimum extent necessary, consistent with the need to carry out the Work, provided that the reproduced material is marked and protected in the same manner as the original material; (e) material containing BCSI should be disposed of through secured shredding receptacles or other secured document destruction methods; (f) BCSI shall be transmitted only by the following means: (i) hand delivery; (ii) United States first class, express, certified or registered mail, bonded courier, or through secure electronic means; (iii) e-mail with encrypted file (such as, WinZip with password) (the password should not be included in e-mail, but should be delivered by phone or in an unrelated e-mail not mentioning the document name; password-protected Microsoft Office documents do not meet the encryption requirements); and (g) documents or material containing BCSI shall be returned to Company or certified destroyed upon completion of the Work.

Nondisclosure. Supplier agrees that it will not disclose Confidential Information, directly or indirectly, under any circumstances or by any means, to any third person without the express written consent of Company.

Nonuse. Supplier further agrees that it will not use Confidential Information except as may be necessary to perform the Work called for by this Contract.

Protection. Confidential Information will be made available by Supplier to its employees only on a "need to know" basis and only after notifying such employees of the confidential nature of the information and after having obligated them to the nonuse and nondisclosure obligations of this Contract. Supplier agrees to take all reasonable precautions to protect the confidentiality of Confidential Information and, upon request by Company, to return to Company any documents which contain or reflect such Confidential Information.

Federal Defend Trade Secrets Act. The Federal Defend Trade Secrets Act of 2016 provides immunity from civil or criminal liability for any employee or contractor who discloses a trade secret "in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney" where the disclosure by the employee or contractor is "solely for the purpose of

reporting or investigating a suspected violation of law” or “is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.” 18 U.S.C. § 1833(b). Nothing in this Contract is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

Unless waived by Company, Supplier shall require its employees and Subcontractors of any tier to adhere to these confidential information and nondisclosure terms.

ARTICLE 46. OWNERSHIP OF DESIGNS, DRAWINGS AND WORK PRODUCT

The Deliverables prepared or developed hereunder, or other documents or information provided to Company, by Supplier or its employees or agents, or Subcontractors or their employees or agents, including without limitation drawings, specifications, manuals, calculations, maps, sketches, designs, tracings, notes, reports, data, computer programs, models and samples, shall become the property of Company when prepared, and shall, together with any documents or information furnished to Supplier and its employees or agents by Company hereunder, shall be delivered to Company upon request, and, in any event, upon termination or final acceptance of the Work. Company shall have full rights and privileges to use and reproduce said items in its operation, maintenance, improvement and replacement of Company’s assets, and shall have full rights and privileges to share the same with its contractors, agents, officers, directors, employees, joint owners, affiliates and consultants who are assisting Company with same, without regard to any markings that may denote a confidential or proprietary interest in the said items. To the extent that any Deliverables include or incorporate preexisting intellectual property of Supplier, Supplier hereby grants Company a fully paid, perpetual license to use such intellectual property for Company’s operation, maintenance, modification, improvement and replacement of the Company’s assets the fullest extent necessary to accomplish those purposes, including the right to share same with Company’s contractors, agent, officers, directors, employees, joint owners, affiliates and consultants. Promptly upon Company’s request, Supplier shall provide all tools and information (including without limitation applicable passwords and authorization codes) necessary to ensure Company receives the full benefit of the Work.

ARTICLE 47. PATENT AND COPYRIGHT INDEMNITY

Supplier shall indemnify, defend, and hold harmless Company, its directors, officers, employees, joint owners, and agents against and from all claims, losses, costs, suits, judgments, damages, and expenses, including attorneys’ fees, of any kind or nature based on a claim that the Materials, Work or Deliverables constitute an infringement of any patent, copyrighted or uncopyrighted work. If notified promptly in writing and given reasonable authority, information and assistance, and contingent upon Company not taking any position adverse to Supplier in connection with such claim, Supplier shall defend, or may settle at its expense, any suit or proceeding against Company so far as based on a claimed infringement and Supplier shall pay all damages and costs awarded therein against Company due to such breach.

In case any Materials, Work or Deliverables are determined in such suit to constitute such an infringement and the use of said Materials, Work or Deliverables are enjoined, Supplier shall, at its expense and through mutual agreement between Company and Supplier, either procure for Company the right to continue using said Materials, Work or Deliverables, replace same with non-infringing materials or modify the same so it becomes non-infringing.

ARTICLE 48. ELECTRONIC COMMERCE

Company operates a SAP-based enterprise resource planning system that governs its materials and financial transactions. Supplier shall in the future make every commercially reasonable effort to pursue and develop the required connectors and interfaces to Company’s SAP system in order for cost effective implementation of supply chain management processes preferred under this Contract. In addition, Company is open to maximizing the cost effective utilization of standards based electronic commerce technologies, compatible with legacy computer systems, including but not limited to requirements for desk top ordering, cataloging, documentation, payments, and performance monitoring.

In the event Supplier has implemented electronic commerce capabilities, Supplier shall ensure such electronic commerce (e-commerce website) interface shall be available to Company.

Supplier’s (and its Subcontractor’s) Lead Times for Materials shall be stated in the e-commerce website. At a minimum, Supplier shall update the Lead Times on a quarterly basis or as changes in Lead Times are known to Supplier. Supplier Lead Times shall be no greater than those agreed in the Contract.

Supplier and its Subcontractors shall provide Company with twenty-four (24) hour a day access to Supplier web based catalog and electronic documentation library. Supplier’s electronic commerce business model shall include: (i) processes for electronic invoicing and payment systems; (ii) development of an electronic inspection library for certificates, test reports, shipment release documents, etc.; (iii) tracking and tracing of Company shipments from its Suppliers; and (iv) electronic links to its Suppliers

engineering files, drawings, documentation, installation/operations manuals, and product alerts.

Supplier's electronic commerce platform should support a seamless interface with any e-commerce enterprise platform specified by Company. Supplier shall keep an electronic historical file of all transactions executed under the Contract and shall maintain such records for the duration of the Contract plus an additional three (3) years. Supplier shall have a computerized inventory and/or production management system and/or Purchase Order tracking/expediting system, capable of interfacing with Company systems.

ARTICLE 49. CYBERSECURITY

I. OBJECTIVE AND SCOPE OF THIS ARTICLE

Managing supply chain cyber security risk requires Company's contractors and suppliers to meet minimum obligations to maintain the integrity of Company's systems, facilities, and Confidential Information. This Cybersecurity Article ("Article") applies to any contractor or supplier (collectively, "Supplier" for purposes of this Article) (and its Personnel and Subcontractors) that may store, process, or have access to Company's information systems, networks, services, or applications, and may impact the integrity, availability, or confidentiality of Company's Confidential Information or systems for the term of the Contract.

II. DEFINED TERMS

"**Confidential Information**" shall have the meaning as defined in the Contract and in addition include any information that identifies an individual or customer of Company, including but not limited to customer account numbers, customer addresses, customer energy usage information, credit or bank account numbers, social security numbers, passport or driver's license numbers, or any information not otherwise classified as public information by Company.

"**Data**" shall mean any information, formulae, algorithms, or other content that the Company or the Company's employees, agents and end users upload, create or modify using any software provided pursuant to the Contract. Data also includes user identification information and metadata which may contain Data or from which the Company's Data may be ascertainable.

"**Security Breach**" shall mean any act or omission that compromises either the security, confidentiality, or integrity of Company's Confidential Information, Data, systems and facilities or Company's physical, technical, administrative or organizational safeguards and controls relating to the protection of Company's Confidential Information, Data, systems, and facilities.

Any capitalized terms not otherwise defined herein shall have the meaning in the Contract.

III. COMPLIANCE WITH INDUSTRY BEST PRACTICES AND STANDARDS

Without limiting Supplier's obligations elsewhere in this Article or the Contract, Supplier shall implement baseline security safeguards and controls to protect Company's Confidential Information, Data, and systems that are no less rigorous than accepted industry practices, specifically those set forth in the latest published version of (i) National Institute of Standards and Technology Special Publication 800-53, Recommended Security Controls for Federal Information Systems or (ii) ISO 27001-Information Security Management.

IV. INFORMATION AND SYSTEMS SECURITY PROGRAM

(a) **Confidential Information.** Supplier represents and warrants that its collection, access, use, storage, disposal, and disclosure of Company's Confidential Information and Data does and will comply with all applicable federal and state privacy and data protection laws, regulations, and directives. Supplier's safeguards shall include limiting access to Company systems and Confidential Information to Supplier's Personnel who have a "need to know" or otherwise access Company's systems and Confidential Information to enable Supplier to perform Work or Services under the Contract. Articles of the Contract concerning (i) Supplier's Personnel and their access to Company's facilities and (ii) the handling of Confidential Information, respectively, shall apply to this Article as applicable. These provisions included herein apply to all Subcontractors to the extent and during such periods as they are in possession of Confidential Information or Data.

(b) **Data and Information Security Program.** Supplier shall develop a data and information security program that documents the policies, standards, and controls in use, including organizational, administrative, technical, and physical safeguards and standards. The data and information security program must be reasonably designed to achieve the objectives to:

- (i) ensure the confidentiality, availability, and integrity of Company's Confidential Information;
 - (ii) protect against any anticipated threats or hazards to the confidentiality, availability, or integrity of such information;
- and

(iii) protect against unauthorized access to or use of such information or information systems.

Supplier shall ensure that it produces and communicates a comprehensive, documented data and information security program to all Personnel with access to Company's Confidential Information, Data, and systems.

(c) **Information Systems Acquisition, Development and Maintenance.** Supplier shall utilize a comprehensive application security program to help ensure that applications are consistent with industry security requirements. This shall include full application compliance testing and software development reviews.

(d) **Vulnerability Testing and Remediation.** Supplier shall ensure systems are regularly scanned for compliance with industry security standards, and that any applicable detected vulnerabilities are remediated. Supplier shall ensure that application security vulnerabilities are assessed for business risk and impact, and have a vulnerability remediation plan.

(e) **Secure System Configuration.** Supplier shall establish, implement, and actively manage (track, report on, and correct) the security configuration of laptops, servers, and workstations using a rigorous configuration management and change control process in order to prevent attackers from exploiting vulnerable services and settings.

(f) **System Patching.** Supplier shall implement an effective software update management process to ensure the most relevant, up-to-date, approved patches are installed for all authorized software. This process shall also include weighing the benefit associated with installing a patch to resolve a vulnerability against other factors, including the potential impact to system stability.

(g) **Security Review of Internal and External Applications.** Supplier shall perform security reviews of applications developed internally, as well as third party applications that process, store or transmit data.

(h) **Application Security Awareness Program Content.** Supplier shall ensure that the content of its application security awareness program incorporates current and relevant security attacks and vulnerabilities mitigation.

(i) **Disaster Recovery and Business Continuity.** Supplier shall develop a comprehensive IT disaster recovery and business continuity program and plan that is accessible by Company, supported by contingency arrangements, and tested periodically.

(j) **Remote Access.** Supplier shall follow all applicable Company requirements for all remote access to Company resources and systems. To the extent Supplier's Personnel will have interactive remote access to Company's networks, systems or applications, such access must be performed on a secure connection. Supplier shall utilize multi-factor authentication (e.g., two-factor or token) to provide an additional level of security for Supplier's Personnel with such access. Supplier shall maintain an accurate record of Personnel or Subcontractors who will have remote access to Company resources and systems, and the country of origin of individual remote access, and Supplier shall name its personnel and Subcontractors given remote access to Company's systems. Company reserves the right to deny individual remote access connection at Company's sole discretion.

V. SECURITY OF CONFIDENTIAL INFORMATION AND DATA

(a) Any Confidential Information and Data provided by Company to Supplier (electronically or otherwise) and used by the Supplier directly or indirectly in the performance of this Contract shall remain at all times the confidential property of Company. Supplier shall not use Confidential Information or Data, and shall not permit any Subcontractor to use Confidential Information or Data, for any purpose other than the purpose of performing the Work or Services set forth in this Contract.

(b) During the term of the Contract, Supplier shall provide Company with Notice if Confidential Information or Data will be physically located outside the United States at least forty-eight (48) hours in advance.

(c) Supplier shall be responsible for preserving the integrity (i.e., completeness and accuracy) of, and preventing any unauthorized access, corruption, loss, damage and/or destruction to, Confidential Information or Data.

VI. OVERSIGHT OF COMPLIANCE

Company reserves the right to conduct an assessment, audit, examination, or review of Supplier's security controls to confirm Supplier's adherence to the terms of this Article, as well as any applicable laws, regulations, and industry standards, not more than once per year or upon notification of any Security Breach or complaint regarding Supplier's privacy and security practices. Company may elect to obtain the services of a third party to conduct this assessment, audit, examination, or review on behalf of Company. Company shall give Supplier no less than thirty (30) calendar days' notice of its intent to conduct such assessment, audit, examination, or review. As part of this assessment, audit, examination, or review, Company may review all controls in Supplier's physical and/or technical environment in relation to all Confidential Information being handled and/or services being provided pursuant to this Article. Supplier shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, and application software that processes, stores, or accesses

Company's Confidential Information or systems pursuant to the Contract. Vendor grants the Company the right to perform network-based vulnerability scans of any Internet-reachable websites or devices used for the provision of services or support under the Contract.

VII. SECURITY BREACH PROCEDURES; EQUITABLE RELIEF

(a) Supplier shall:

- (i) provide Company with the name and contact information for any Personnel who shall serve as Supplier's primary security contact and shall be available to assist Company twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a real or emerging Security Breach;
- (ii) notify Company of a real or emerging Security Breach as soon as practicable, but no later than 24 hours after Supplier becomes aware of it; and
- (iii) notify Company of any real or emerging Security Breach by telephone at the following number: Michael Ball at 503-813-6327 (Office); 503-528-4362 (Cell)

(b) Immediately following Supplier's notification to Company of a real or emerging Security Breach, the Parties shall coordinate with each other to investigate such Security Breach. Supplier agrees to fully and promptly coordinate with Company in Company's handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing Company with physical access to the facilities and operations affected; (iii) facilitating interviews with Supplier's Personnel and other employees or agents involved in the matter; and (iv) making available all relevant records and other materials required to comply with applicable law, regulation, industry standards, or otherwise reasonably required by Company.

(c) Supplier shall use best efforts to immediately remedy any real or emerging Security Breach and prevent any further Security Breach at Supplier's expense in accordance with applicable privacy laws, regulations, and standards. Supplier shall reimburse Company for actual reasonable costs incurred by Company in responding to, and mitigating damages caused by, any real or emerging Security Breach, including all costs of notice and/or remediation pursuant to this section. In the event of a Security Breach, Supplier shall promptly use its best efforts to prevent a recurrence of any such Security Breach.

(d) Supplier agrees that it shall not inform any third party of any Security Breach without first obtaining Company's prior written consent other than to inform a complainant that the matter has been forwarded to Company's legal counsel. Further, Company shall have the sole and exclusive right to determine: (i) whether notice of the Security Breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies, or others as required by law or regulation, or otherwise in Company's discretion; and (ii) the contents of such notice.

(e) Supplier shall fully cooperate at its own expense with Company in any litigation or other formal action deemed reasonably necessary by Company to protect its rights relating to the use, disclosure, protection, and maintenance of its Confidential Information and Data.

(f) Supplier shall follow the same notice procedures above as applicable if it becomes aware of any significant emerging cybersecurity issues involving any Subcontractors that may result in a Security Breach involving the Company.

(g) Supplier acknowledges that any breach of Supplier's obligations set forth in this Article may cause Company substantial irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such a breach or threatened breach, Company is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which Company may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other available remedies at law or in equity, subject to any express exclusions or limitations in the Contract to the contrary.

VIII. MATERIAL BREACH OF CONTRACT

Supplier's failure to comply with any of the provisions in this Article is a material breach of the Contract; in such an instance Company may terminate the Contract for cause in a manner consistent with this Contract. In such an event, Company may terminate the Contract effective immediately upon written Notice to the Supplier without further liability or obligation to Supplier notwithstanding any provision to the contrary in the Contract.

IX. NETWORK SECURITY & PRIVACY LIABILITY

If the Work or Services under the Contract involves the rendering of IT services including, but not limited to: software, software or hardware or systems development or consulting services; internet/application services (e.g., web hosting); providing content;

connections to systems, technology or network(s); or if Supplier in any way collects, obtains, maintains or in any way accesses or uses Confidential Information or Data, then Supplier, and its Subcontractors, shall maintain Network Security & Privacy Liability coverage, which can be included via evidenced endorsement to Professional Errors & Omissions coverage, throughout the term of this Contract and for a period of two (2) years thereafter, with a minimum required limit of \$5,000,000 Each Claim.

X. CYBER INDEMNIFICATION

To the fullest extent permitted by the law, Supplier shall defend, indemnify, and hold harmless Company and Company's affiliates, respective officers, directors, employees, agents, and successors (each an "Indemnitee") from and against all losses, damages, liabilities, actions, judgments, interest, awards, penalties, fines, costs or expenses, including reasonable attorneys' fees, arising out of or resulting from any third-party claim against any Indemnitee arising out of or resulting from Supplier's action or omission that represents a failure to comply with any of its obligations under this Article.

ARTICLE 50. ASSIGNMENT

Company may at any time assign its rights and delegate its obligations under this Contract, in whole or in part, including, without limitation, transferring its rights and obligations under this Contract to any: (i) affiliate; (ii) successor in interest with respect to the Work Site; or (iii) corporation or any other business entity in conjunction with a merger, consolidation, or other business reorganization to which Company is a party. Supplier shall not assign any of its rights or responsibilities, nor delegate its obligations, under this Contract or any part hereof without the prior written consent of Company, and any attempted transfer in violation of this restriction shall be

ARTICLE 51. SUBCONTRACTS

Supplier shall not subcontract any or all of the Work without prior written consent of Company which shall not be unreasonably withheld. Supplier shall be fully responsible for the acts or omissions of any Subcontractors of any tier and of all persons employed by them, shall maintain complete control over all such Subcontractors, and neither the consent by Company, nor anything contained herein, shall be deemed to create any contractual relation between the Subcontractor of any tier and Company.

Company is committed to and understands the importance of promoting diversity among its suppliers and their Subcontractors by increasing the amount of business conducted with qualified diverse business enterprises, including women-owned, minority-owned, disabled veteran-owned, and lesbian, gay, bisexual, and transgender ("LGBT")-owned businesses. Company expects the same level of commitment from Supplier when it subcontracts any of the Work to Subcontractors of any tier. In the event of any spend activity with qualified diverse Subcontractors in a given monthly period, Supplier shall submit, by the 10th day of the following month, the Diversity Subcontractor Spend Report included as Exhibit F. Supplier shall submit the Diversity Subcontractor Spend Report to supplierdiversity@pacificcorp.com.

In the event that a state agency or regulatory commission audits any Company report or filing concerning diverse supplier spend activity that had been prepared utilizing information provided at least in part by Supplier, Supplier shall provide Company with all substantiating documentation to sufficiently support Company's report or filing within five (5) Business Days of any request. Examples of documentation that Company may request include, but are not limited to, contracts or purchase orders between Supplier and any of its Subcontractors identifying Company as the ultimate recipient, invoices between Supplier and any of its Subcontractors identifying Company as the ultimate recipient, and proof of payment by Supplier to any of its Subcontractors.

ARTICLE 52. NONWAIVER

The failure of Company to insist upon or enforce strict performance by Supplier of any of the terms of the Contract, or to exercise any rights herein shall not be construed as a waiver or relinquishment to any extent of Company's right to enforce such terms or rights on any future occasion.

ARTICLE 53. SEVERABILITY

Any provision of the Contract prohibited or rendered unenforceable by operation of law shall be ineffective only to the extent of such prohibition or unenforceability and shall not invalidate the remaining provisions of the Contract.

ARTICLE 54. APPLICABLE LAW AND VENUE

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon. Any litigation between the Parties arising out of or relating to this Contract will be conducted exclusively in federal or state courts in the State of Oregon, and Supplier consents to jurisdiction by such courts. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL

BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

ARTICLE 55. ENTIRE CONTRACT; DOCUMENTS INCORPORATED BY REFERENCE

The Contract, including all Contract Documents, shall in each case constitute the complete agreement between the Parties. All understandings, representations, warranties, agreements and any referenced attachments, if any, existing between the Parties regarding the subject matter hereof are merged into and superseded by this Contract, which fully and completely expresses the agreement of the Parties with respect to the subject matter hereof. Any Specifications, drawings, schedules or other exhibits or documents listed in this Contract, including applicable Purchase Orders issued pursuant to the terms hereof, are incorporated by reference into this Contract.

In the event of a conflict between (i) this Master Contract, and (ii) any other terms and conditions contained in any other Contract Documents, this Master Contract shall take precedence and control, unless the Parties have explicitly expressed a contrary intent in one of the other Contract Documents.

Company assumes no responsibility for any understanding or representation made by any of its employees, officers or agents during or prior to the negotiations and execution of a given Contract, unless such understanding or representation is expressly stated in the Contract.

The Parties intend that the terms and conditions of this Contract, its referenced attachments, and any Purchase Order that may be issued relating to this Contract should be complementary with each other; however, in the event of a conflict between the terms and conditions of any Purchase Order and those of the Contract, the terms and conditions of this Contract shall take precedence and control over any Purchase Order (provided, however, that where this Contract indicates commercial terms that may be amended by the Purchase Order, the Purchase Order shall be deemed to govern with respect to such conflicting commercial terms).

ARTICLE 56. EXECUTION AND EFFECTIVE DATE

This Master Contract has been executed by duly authorized representatives of the Parties and shall be effective as of date of execution by Company.

SUPPLIER:

**Marmon Utility, LLC dba Hendrix
Aerial Cable Systems**

COMPANY:

PacifiCorp

By:

[Signature]
(Signature)

Name:

Robert Biddle
(Type or Print)

Title:

Vice President
12-27-16
(Date Executed)

By:

[Signature]
(Signature)

Name:

Douglas Bennison
(Type or Print)

Title:

Vice President
12-28-2016
(Date Executed)