

SERVICE AGREEMENT GENERAL TERMS AND CONDITIONS

The following terms and conditions shall apply to the Service Agreement ("Agreement").

1. **Definitions.** "Work" means all of Contractor's obligations under the Agreement. "Owner" means Ohio Valley Electric Corporation and/or Indiana-Kentucky Electric Corporation as may be specified in the Service Agreement.
2. **Priority.** The Agreement consists of the following documents, listed in their order of priority in the event of a conflict: any amendment to the Agreement; the Agreement Form; these Terms and Conditions; and any exhibit(s), schedule(s), or proposal(s) incorporated into the Agreement. Additional or different terms contained in Contractor's proposal or Contractor's acceptance shall not become a part of the Agreement unless expressly agreed to in writing and signed by Owner.
3. **Schedule.** The scheduled completion dates must be met. Contractor shall notify Owner within twenty-four (24) hours of the first knowledge that any completion date(s) will not be met. Contractor shall be liable for any direct damages incurred by Owner arising out of Contractor's failure to perform on time.
4. **Inspection and Acceptance.** Owner shall have free access to the Work for inspection purposes. Owner's inspection or acceptance of the Work shall not relieve Contractor of its obligation to comply with the terms of the Agreement. Owner may reject nonconforming Work at any time and Contractor shall correct such nonconformity at Contractor's expense. Any part of the Work not rejected by Owner following final inspection shall be deemed accepted. Title to the Work shall pass to Owner upon completion and acceptance.
5. **Borrowing of Tools and Equipment.** If Contractor borrows tools, vehicles, materials or equipment ("equipment") of Owner, Contractor (a) agrees that Owner has provided the equipment AS IS, with no representation or warranties; (b) assumes full responsibility for the protection of the borrowed equipment; (c) assumes all liability for injuries or damages resulting from the use of the borrowed equipment; and (d) agrees to return the borrowed equipment to Owner in the same condition as when it was borrowed, or, if repairs are necessary, to cause such repairs to be performed at Contractor's expense before the equipment is returned to Owner. Owner has no obligation to lend equipment to Contractor.
6. **Other Obligations.** Contractor shall assign qualified and competent supervision and personnel to perform the Work. Key personnel shall not be removed or replaced without prior consent of Owner, which shall not be unreasonably withheld. Contractor shall cooperate with Owner and others working at or near the site of the Work. Contractor shall promptly report to Owner any defects in the work of others that affects the Work. Failure to report such defects constitutes acceptance of the conditions by Contractor. Contractor shall keep all of its work areas free from trash and debris, and keep its work areas "broom clean" on a continuous basis. Contractor shall secure and protect its own materials, tools, equipment and the Work, including Owner provided materials and equipment. Contractor shall provide Owner with periodic progress reports as requested by Owner. The price shall include, and the Contractor shall pay, all taxes and assessments for unemployment insurance, social security and disability benefits, and other taxes which are based upon the compensation paid to persons employed by Contractor or its subcontractors for the performance of any Work.
7. **Changes in Work.** Owner may change the scope of Work. Contractor shall perform the changed scope of Work. If Contractor's price or schedule will be affected by the change, Contractor must submit a request for an amendment to the Agreement prior to starting the change.
8. **Payment.** Contractor shall invoice Owner, with proper documentation, for all Work performed during the prior month. Owner shall pay Contractor, upon submission of proper invoices, the price for Work performed within thirty (30) days after receipt of the invoice. Owner may withhold all or part of payment if Owner disputes Contractor's compliance with the terms of the Agreement. Owner's payment does not constitute acceptance of the Work. The Agreement number must appear on all invoices and notices.
9. **Taxes.** The price shall include all applicable foreign, federal, state and local taxes payable with respect to this Agreement. However, if Owner specifies that services or tangible personal property to be furnished by Contractor qualify for exemption from sales or use taxes or that Owner has a direct payment, Contractor shall, at the direction of Owner, not include sales or use taxes in its price. Owner shall provide Contractor with Owner's direct pay permit or exemption certificate where applicable. Contractor agrees to cooperate in obtaining exemption certificates necessary to claim such exemptions.
10. **Warranty.** Contractor warrants that the Work shall be free of workmanship, material and design defects, new, and in conformance with the Agreement and applicable industry standards. For a period of twelve (12) months from completion and acceptance of the Work, Contractor shall repair or replace, at its expense, including any removal, installation or transportation cost, any defective or nonconforming Work. Owner's acceptance of the Work shall not relieve Contractor of its warranty obligations. In the event of an emergency, or if Contractor fails to correct a defect within a reasonable period of time, Owner may repair or replace any defect in warranted Work at Contractor's expense.
11. **Insurance.** The insurance required by this section shall include contractual liability insurance covering the obligations under this Agreement. Contractor and its subcontractors shall (a) comply with the workers' compensation and occupational disease law of the state where the services are performed; (b) maintain commercial general liability insurance with limits of not less than \$1,000,000 each occurrence and aggregate; (c) maintain commercial automobile liability insurance with limits for bodily injury and property damage of not less than \$1,000,000 each accident, or evidence of self-insurance; (d) if applicable, maintain aircraft liability (including passenger liability) insurance with a combined limit for bodily injury and property damage of not less than \$10,000,000 each occurrence; (e) if applicable, maintain protection and indemnity insurance (including Jones Act liability coverage) with limits of liability of not less than \$10,000,000 each accident; (f) if applicable, maintain professional liability insurance with limits of not less than \$1,000,000 each occurrence and aggregate; and (g) if applicable, maintain any insurance required by federal compensation statutes (including Longshoreman's and Harbor Workers' Compensation Acts). Policies written on a claims-made basis shall be maintained for five (5) years after performance of the Agreement is completed. Each of Contractor's policies of liability insurance (except professional liability) shall include Owner as an additional insured for Owner's liability arising out of the operations of Contractor. Each policy of insurance maintained by Contractor shall be primary and non-contributory with any insurance or self-insurance maintained by Owner. Prior to entering Owner's site, Contractor and its subcontractors shall provide Owner with acceptable certificates of insurance evidencing the above referenced insurance, Owner's additional insured status and providing for each insurer's waiver of its rights of subrogation against Owner. The certificate of insurance must state that the insurance carrier has issued the insurance specified, that such policies are in force, and that the insurance carrier will give Owner thirty (30) days prior written notice of any material change in, or cancellation of, such policies.
12. **Force Majeure.** Neither party shall be in breach of the Agreement to the extent that any delay or default in performance is due to causes beyond the reasonable control of the delayed or defaulting party, provided that the delayed or defaulting party immediately notifies the other party of the event, an estimate of the duration of the event, and the delaying or defaulting party's plan to mitigate the effects of the delay or default.
13. **Compliance with Laws.** Contractor shall comply with all applicable laws, rules, regulations and orders of any governmental authority, and

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will obtain at its expense all permits and licenses, pertaining to its obligations under the Agreement. Contractor agrees to indemnify and save Owner harmless from and against any liability or damages, including attorneys' fees, for noncompliance therewith by Contractor.

14. Safety. Contractor shall perform the Work in a safe and careful manner and use such safety devices and methods as are necessary to protect its employees, agents, subcontractors, Owner's employees and agents, other contractors and the public from bodily harm and damage. Contractor shall comply with and enforce all laws, rules and regulations applicable to safety and health standards, including but not limited to the Occupational Safety and Health Act of 1970 (OSHA), and any revisions to OSHA or successor legislation. Contractor shall comply with all project and site safety and security rules and procedures issued by Owner, provided that such rules and procedures do not conflict with OSHA or other safety laws, rules and regulations. Contractor shall provide Owner with Material Safety Data Sheets for all applicable materials prior to delivery to Owner's site.

Contractor and all subcontractors performing Work at site must have a substance abuse program. This program must apply to all personnel. Minimum requirements of this program shall include pre-hire testing, testing for cause and if requested, random testing. Screening substances and their associated cut-off limits are listed below.

Drug Classes	Screening Cut-Off Limit (ng/ml)	Confirmation Cut-Off Limit (ng/ml)
Amphetamines	1,000	500
Benzoylcegonine	300	150
Cannabinoids	50	15
Opiates	2000	2,000
Phencyclidine	25	25

Blood & Breath alcohol content: .04% per Dept. of Transportation.

Testing shall be performed by a testing facility certified by Department of Health & Human Services. Personnel must have evidence of having tested negative within one (1) year prior to employment. Owner will accept conditional employment predicated upon (a) employee(s) furnishing evidence that they have submitted to testing within forty-eight (48) hours of initial employment and (b) employee(s) furnishing evidence of negative test results within five (5) work days of initial employment. Contractor shall ensure personnel are "drug free." Owner reserves the right to examine evidence outlined herein. Contractor's program shall incorporate reciprocity on "drug free" employee verification to minimize Owner's economic impact, and employees' recertification while maintaining the program's intent.

If required by Owner, Contractor must meet certain security criteria set forth herein. Contractor is responsible for assuring that each of its employees meet these criteria. Contractor must perform a background check to assure that each of its employees: (a) has never been convicted of a felony; (b) has never been convicted of a crime involving drugs or firearms; (c) has never been convicted of a crime involving violence or assault; and (d) has no immigration violations and is eligible to work in the United States. For the purpose of performing the background check, and to otherwise screen the potential Contractor employee, Contractor shall: (a) conduct a fingerprint background check through the repository of the individual's current state of residence and states of residence during the past five (5) years; (b) contact two listed and two developed references; (c) verify education and any professional license to the extent claimed by the individual; (d) obtain employment history for seven-year period prior to employment with Contractor, including all periods of unemployment within that seven-year period; (e) perform a driver's license verification if the individual will operate vehicles on Owner's property (This includes motor vehicle records check in the state where the individual currently resides, as well as verification of a valid license); and (f) perform an individual Social Security number trace. Contractor shall submit to Owner a copy of its proprietary background investigation process for Owner's review and file. Owner reserves the right to conduct a background screen at Contractor expense if agreed between Owner and Contractor. Owner may audit or review specific

Contractor screening files to insure compliance. Contractor shall not perform any screening activities that violate the federal Fair Credit Reporting Act, Title VII of the Civil Rights Act of 1964 or any other applicable law in any circumstances. Contractor shall ensure that the substance and manner of any and all background checks performed by Contractor conform fully to applicable law. Owner, in its sole discretion, shall have the option of barring from any Work site any person whom Owner determines does not meet the qualification requirements set forth above.

15. Intellectual Property. Contractor warrants that its performance of the Work will not infringe upon or violate any trademarks, patents, copyrights, trade secrets or other third party property rights. If the performance of Work is held in any action to constitute infringement, or the use of the Work is enjoined, Contractor, at its expense, shall procure for Owner the right to continue use of the Work, or replace the Work with non-infringing materials or methods satisfactory to Owner, or modify the Work in a manner satisfactory to Owner so that the Work becomes non-infringing. Contractor agrees to indemnify and save Owner harmless from and against any liability or damages, including attorneys' fees, arising out of any alleged infringement or violation. Owner will own the Work and any intellectual property, including trademarks, patents, copyrights and trade secrets, resulting from the Work. Work performed hereunder shall be deemed "work made for hire." Contractor will execute documents, including agreements with its employees and agents and assignment documents, necessary to effectuate Owner's ownership of such intellectual property.
16. Confidentiality. Each party agrees (a) to protect the Confidential Information of the other with at least the same degree of care used to protect its own most confidential information; (b) not to use (except for the purpose described herein), publish or disclose to third parties such Confidential Information; and (c) upon the request of the other party, to promptly deliver to the other party all written copies of its Confidential Information. "Confidential Information" shall include, but not be limited to, business plans and methods; customer information; engineering, operating and technical data; and the dates of Owner's outage schedule(s). Contractor shall not use Owner's name or logo in marketing or endorsements without the prior written consent of Owner.
17. Termination. Owner may terminate, for its convenience or for cause, all or any part of the Agreement upon notice to Contractor. Upon termination for convenience, Contractor shall immediately stop work on the terminated portion of the Agreement and shall submit to Owner an invoice with supporting information setting forth the Agreement price for the Work performed prior to the notice of termination, plus Contractor's actual, direct, unavoidable costs resulting from the termination, less salvage value, in no event to exceed the Agreement price. Upon termination for cause, Owner may pursue all rights and remedies available under the law. Upon termination for convenience or cause, Owner shall not be liable to Contractor for Contractor's lost profits on the terminated portion of the Agreement.
18. Indemnification. (a) The laws of the state where the Work giving rise to the claim is performed shall apply to this Section. (b) IN STATES OTHER THAN OHIO, TO THE EXTENT PERMITTED BY LAW, CONTRACTOR SHALL INDEMNIFY, DEFEND AT ITS EXPENSE, AND SAVE OWNER HARMLESS, FROM ANY LIABILITIES, COSTS AND CLAIMS, INCLUDING JUDGMENTS RENDERED AGAINST, AND FINES AND PENALTIES IMPOSED UPON, OWNER AND REASONABLE ATTORNEYS' FEES AND ALL OTHER COSTS OF LITIGATION, ARISING OUT OF THIS AGREEMENT, INCLUDING INJURIES, DISEASE OR DEATH TO PERSONS, OR DAMAGE TO PROPERTY, INCLUDING ENVIRONMENTAL CLAIMS AND LIABILITIES, CAUSED BY CONTRACTOR, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS, OR IN ANY WAY ATTRIBUTABLE TO THE PERFORMANCE OF THIS AGREEMENT, EXCEPT

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THAT CONTRACTOR'S OBLIGATION TO INDEMNIFY OWNER SHALL NOT APPLY TO ANY LIABILITIES ARISING FROM OWNER'S SOLE NEGLIGENCE. (c) In Ohio, Contractor shall indemnify and save Owner harmless from any and all costs and expenses, including but not limited to reasonable attorneys' fees and court costs, arising from or relating to injuries, disease or death to persons, or damage to property, caused by Contractor, its employees, agents or subcontractors, or in any way attributable to the Agreement. (d) WITH RESPECT TO CLAIMS AGAINST OWNER BY CONTRACTOR'S EMPLOYEES, CONTRACTOR AGREES TO EXPRESSLY WAIVE ITS IMMUNITY AS A COMPLYING EMPLOYER UNDER THE WORKERS' COMPENSATION LAW, BUT ONLY TO THE EXTENT THAT SUCH IMMUNITY WOULD BAR OR AFFECT RECOVERY UNDER OR ENFORCEMENT OF THIS INDEMNIFICATION OBLIGATION. With respect to the State of Ohio, this waiver applies to Section 35, Article II of the Ohio Constitution and Ohio Rev. Code Section 4123.74. (e) Contractor shall pay Owner's reasonable attorneys' fees and all costs of litigation associated with enforcement of the obligation set forth in this Section.

19. **Limitation of Liability.** Except as expressly provided herein, neither party shall be liable to the other for any incidental, indirect, special, punitive or consequential damages. Contractor must bring any cause of action arising under the Agreement within one (1) year from the time the cause of action accrues.
20. **Liens.** Contractor shall not file or permit to be filed any lien with respect to the Work and hereby expressly waives any right to file, or cause to be filed, a lien. Contractor, in its subcontracts, shall require all subcontractors to expressly waive the right to file any liens against Owner's property and, if requested, provide Owner with copies of such waivers. Contractor shall indemnify Owner for any costs or expenses resulting from a breach of this paragraph.
21. **Assignment and Subcontracting.** Contractor may not subcontract, assign, or otherwise dispose of the Agreement without the prior written consent of Owner.
22. **Records.** Owner reserves the right to audit records necessary to permit evaluation and verification of claims submitted, and Contractor's compliance, in the performance of this Agreement and its dealings with Owner, with (a) the Contract requirements; and (b) Owner's Corporate Code of Conduct governing business ethics. Contractor shall retain for a period of three (3) years following final payment all information and records relating to the Work performed under the Agreement. Owner may examine and copy such information and records at Contractor's premises during regular business hours.
23. **Affiliated Companies.** Any indemnification of Owner and any limitation of Owner's liability shall to the same extent apply to Owner's directors, officers, employees, agents and affiliated companies, and the directors, officers, employees and agents thereof.
24. **Government Contractor Compliance.** (a) Unless exempted, Contractor shall comply with the equal employment opportunity clause in Section 202 of Executive Order 11246 and all applicable rules, regulations, and relevant orders pertaining to Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and Section 4212 of the Vietnam Era Readjustment Assistance Act of 1974, as amended. (b) Contractor represents that it does not, and shall not for the term of the Agreement, provide or maintain for its employees facilities that are segregated on the basis of race, color, religion, sex or national origin. Contractor represents that it will not assign its employees to perform any work related to this Agreement at a location where facilities are segregated on the basis of race, color, religion, sex or national origin. Contractor agrees that it will not enter into any agreement to obtain goods or services relating to this Agreement with any entity that provides, maintains or assigns its employees to work at locations where facilities are segregated on the basis of race, color, religion, sex or national origin. As used herein, "facility" means waiting rooms; work areas; restaurants and other eating areas; time clocks; locker rooms and other storage or sleeping areas, except as necessary to assure privacy between male and female employees; parking lots, drinking fountains; recreation or entertainment areas; and transportation. (c) If not otherwise exempted by Title 48 and to the extent applicable, Contractor will comply with 48 CFR §52.219-8, Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns, and 48 CFR §52.219-9, Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan. (d) If not otherwise exempted by 41 CFR §60-1.5, Contractor represents that it will file all reports or other required information specified in 41 CFR §60-1.7.
25. **Notices.** Each party shall designate a representative for the receipt of notices, which may be changed from time to time. All notices required to be given under the Agreement shall be in writing and delivered by fax, personal delivery, e-mail or U.S. mail. Notices shall be effective upon receipt, or such later date specified in the notice.
26. **Governing Law.** The laws of the State of Ohio shall govern the Agreement. Contractor agrees that all actions and proceedings brought by Owner against Contractor may be litigated in courts located in the State of Ohio or in the state where the Work was performed. Contractor agrees that such courts are convenient forums and irrevocably submits to the personal jurisdiction of such courts. Contractor waives personal service of process and consents to service of process by certified or registered mail at the address designated for receiving notices under the Agreement.
27. **Miscellaneous.** The effective date of the Agreement shall be the earlier of the date on which Contractor begins performance hereunder or the date of the later signature on the Agreement. Contractor shall be an independent contractor in the performance of the Agreement. No waiver by either party of any default shall be deemed a waiver of any subsequent default. The Agreement constitutes the entire agreement of the parties. If any provision of the Agreement is held to be invalid, such invalidity shall not affect the remaining provisions of the Agreement. Amendments to the Agreement must be in writing and signed by both parties. Headings are provided for the convenience of the parties, and shall not affect the interpretation of any provision.

END OF DOCUMENT