



CITY OF HUDSON
27 EAST MAIN STREET
HUDSON OH 44236-3099

Your number with us
210004928

Please deliver to:
Ohio Edison Company and
Pennsylvania Power Company
STORM RESTORATION WORK

Purchase Order

PO number/date
55109015 / 09/17/2008
Contact person/Telephone
Michael D. Began/330-761-4408
Our fax number
330-761-2371

Valid from: 09/17/2008
Valid to : 04/30/2009

Freight Charges & FOB Terms: No freight, FOB destination
Terms of payt.: Within 10 days 2 % cash discount
Within 45 days Due net

Currency USD

FirstEnergy Service Company on behalf of Ohio Edison Company, Pennsylvania Power Company, (Purchaser). The purchaser subsidiary and/or affiliate company(s) shall be identified by the ship-to address included herein or on any subsequent blanket purchase order release authorization ship-to address as included thereon, as appropriate. If more than one company is identified as the purchaser, the liability of each company named shall be several and not joint and shall be limited to such company's interest as identified therein.

Attention: Jeffrey E. Fullerton
Phone: 330-342-1723
Email: jfullerton@hudson.oh.us

For commercial questions please call Mike Began at 330-761-4408.
Fax: 330-245-5357
Email: mbegan@firstenergycorp.com

Technical questions please call Todd Stover at 330-384-5933.

Labor & Equipment Rates dated 9/17/2008 from Jeffrey E. Fullerton to Nick Salupo.

Ohio Edison Co./Penn Power Co. - STORM RESTORATION WORK

The contract period of performance shall be from September 17, 2008 through April 30, 2009.

Invoicing

All invoices rendered under this purchase order shall be sent directly to the primary contact person at the location for which the below described services are performed.

The invoice must include the following, as applicable:

- Purchase order/change order number
- Line item number
- Task Authorization number
- Timesheets
- Receipts for reimbursable expenses

Mail a single copy of the invoice to:

Ohio Edison Company
Attention: Todd Stover, A-FAIR-3
1910 West Market Street
Akron, OH 44313

Questions about invoices or payments may be directed to the Accounts Payable help desk at (814)539-3200.

Task Authorizations (TA) and Funding Control

All Service related work and when specifically identified, Non-Stock Material, purchased by FirstEnergy Service Company shall be performed under this agreement on a Task Authorization (TA) basis and shall not exceed the current authorized amount identified on the TA. Duration limits specified in the TA and the agreement must be strictly adhered to. Changes to authorized dollars and durations of TA's may only be made via the issuance of another TA or appropriate revision to an existing one. Changes to dollars and durations of the agreement may only be made via a formal change order or contract amendment.

A TA is a formal written release of work and budget dollars that authorizes a service or specifically identified non-stock material Supplier to commence work in accordance with the TA and the agreement being the controlling document in cases of conflict. The TA does not impart any technical or quality requirements to the Supplier regarding their services or materials. No work shall be performed prior to the vendor's receipt of a TA.

Failure to adhere to these requirements may result in non-payment for the applicable services or specifically identified materials.

Emergency Operations

In the event an authorized representative of the Purchaser deems the circumstances as an "emergency situation" work can be completed prior to receipt of a TA. In this case, a TA will be created by the Purchaser and provided to the contractor within 5 business days of the issuance of the agreement or if the agreement already exists, the work being performed. The Supplier must include this TA Number on invoices submitted to the Purchaser.

Invoicing

One hundred percent (100%) of the total amount due the Supplier shall be paid within the payment terms specified in this agreement after receipt or FirstEnergy creation of an approvable invoice. For all work (on-site time and material, and other applicable), the Supplier shall complete and submit timesheets electronically via the Xign Network or other Purchaser accepted system on a weekly basis.

Invoices or charges in excess of the amount specified on the TA shall not be incurred and will not be reimbursed without a revision to the existing TA to allow payment. The TA revision must contain the approval from a representative of FirstEnergy Service Company Business Services.

The invoice must include the following, as applicable:

Purchase order / change order number

Task Authorization number

Location of services, services being invoiced, performance period, delivery location

Receipts for reimbursable expenses.

All invoices are subject to the review and approval of authorized representative of the Purchaser.

Contractor shall refer all Task Authorization questions/issues to the following Business Services Representative:

Ohio Edison Company / Pennsylvania Power Company

Ryan Dotson, A-FAIR-1

1910 West Market Street

Akron, OH 44313

Phone: (330) 384-3706

Item	FE Material No. Order qty.	Unit	Price per unit	Net value
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00001

Furnish supervision, labor, and equipment to provide storm restoration work for Ohio Edison Company and Pennsylvania Power Company as requested by authorized FirstEnergy representatives.

Labor and Equipment rates per Jeffrey E. Fullerton dated 9/17/2008.

The below listed billing rates effective for the duration of the period of performance as noted above are subject to change only for revision to the wage rates and fringe benefits as required under applicable collective bargaining agreements or payroll taxes as required under law. No changes to the below listed billing rates shall become effective without prior written notice of thirty (30) days to the Purchaser detailing the changes being requested.

Hudson Public Power

Name	Rate	OT Rate	St Rate w/benefits	Hourly benefits	OT w/benefits
Autz	\$31.72	\$47.58	\$37.57	\$5.85	\$53.43
Bauza	\$21.53	\$32.30	\$25.50	\$3.97	\$36.27
Bee	\$25.04	\$37.56	\$29.66	\$4.62	\$42.18
Bogle	\$23.89	\$35.84	\$28.30	\$4.41	\$40.24
Brandt	\$16.45	\$24.68	\$19.41	\$2.96	\$27.64
DeGraw	\$29.48	\$44.22	\$34.92	\$5.44	\$49.66
Dombrowski	\$30.73	\$46.10	\$36.40	\$5.67	\$51.76
Fullerton	\$29.96	\$44.94	\$35.49	\$5.53	\$50.47
Griffith	\$31.72	\$47.58	\$37.57	\$5.85	\$53.43
Hunt	\$21.04	\$31.56	\$24.92	\$3.88	\$35.44
King	\$35.18	\$52.77	\$41.67	\$6.49	\$59.26
Kodrich	\$26.16	\$39.24	\$30.99	\$4.83	\$44.07
Kovalchick	\$31.72	\$47.58	\$37.57	\$5.85	\$53.43
Mick	\$23.89	\$35.84	\$28.30	\$4.41	\$40.24
Moore	\$28.86	\$43.29	\$34.18	\$5.32	\$48.61
Myers	\$31.72	\$47.58	\$37.57	\$5.85	\$53.43
Reddick	\$28.21	\$42.32	\$33.41	\$5.20	\$47.52
Schiffbauer	\$31.39	\$47.09	\$37.18	\$5.79	\$52.88
Snyder	\$35.18	\$52.77	\$41.67	\$6.49	\$59.26
Stobl	\$28.86	\$43.29	\$34.18	\$5.32	\$48.61

Supervision

Fred Essex	\$39.15	\$58.73	\$46.37	\$7.22	\$65.95
Brunslatter	\$36.05	\$54.08	\$42.70	\$6.65	\$60.73
Stalla	\$45.32	\$67.98	\$53.68	\$8.36	\$76.34

Trucks:

	Rate	
Bucket Truck	\$35.00	44, 46, 48, 51, 58
Digger/Derrick	\$35.00	53, 56
Pick-up	\$25.00	41, 45, 47, 49, 50, 52, 54, 55, 57, 59

AGREEMENT BETWEEN CITY OF HUDSON, OHIO

and

UTILITY WORKERS LOCAL 588

Effective May 1, 2006 through April 30, 2009

Section 7. Earned Rest. An employee who works in excess of sixteen (16) continuous hours, or in excess of sixteen (16) hours out of the preceding twenty-four (24) hours, without at least eight (8) continuous hours off, shall be entitled to a rest period of eight (8) continuous hours upon being released from duty. For all hours worked (other than scheduled overtime and/or snowplowing overtime) in excess of those sixteen (16)

hours, an employee will be paid two (2) times his regular straight time rate. An employee will be paid his regular straight time rate for the time any rest period falls within his regularly scheduled work hours and will report to duty, unless properly excused at the conclusion of the rest period, if the rest period expires during his regularly scheduled hours.

Section 8. Meals. Meals may be provided in overtime and/or call-out situations in excess of eight (8) hours and every five (5) hours thereafter, at the Superintendent's or his designee's discretion, as provided for in the City of Hudson's purchasing guidelines, and at the Superintendent's reimbursable expense. In the event of an overtime situation where employees work beyond their regular workday ending time, meals may be provided, at the Superintendent's or his designee's discretion, after eight (8) hours has elapsed since the lunch break.

Section 9. Mutual Aid. An employee performing service restoration outside the City's service area shall be paid one and one-half (1-1/2) times their regular straight time rate of pay for all hours worked, or double his regular straight time rate of pay when such work is performed on a Sunday, outside his regular schedule on a holiday, or is in excess of sixteen (16) hours in any twenty-four hour period when the employee has not received eight (8) continuous hours of rest. Mutual Aid hours shall be equalized among qualified employees in accordance with current practice unless otherwise agreed by the parties.

FIRSTENERGY SERVICE COMPANY - GENERAL TERMS AND CONDITIONS
FOR PURCHASE OF LABOR SERVICES

ARTICLE I - DEFINITIONS

The following terms, when used in this Agreement with initial capitalization, shall have the meanings given below unless in any particular instance the context clearly indicates otherwise:

- A. "Contractor" means the organization which is bidding and/or, if awarded the order, the organization furnishing and/or performing the Work.
- B. "Contractor's Superintendent" means Contractor's designated authorized field representative actively engaged in the supervision of the Work and in all matters relating to this Agreement.
- C. "Data" - Material that includes documentation, manuals, maps, plans, schedules, programs, specifications, software, reports, drawings, designs and other relevant information;
- D. "Purchaser" means FirstEnergy Service Company for itself and/or as an authorized agent of the affiliate company or companies set forth on the face of the Request for Proposal and/or Purchase Order attached hereto for which the services as specified elsewhere herein shall be performed hereunder. If more than one company is identified as the Purchaser, the liability of each company named shall be several and not joint and shall be limited to such company's interest in this Agreement, as identified on the Request for Proposal and/or Purchase Order.
- E. "Purchaser's Site" includes generating stations, steam plants, substations, transmission and distribution lines, towers, poles, buildings, or other locations owned or leased by Purchaser, for which the Work is intended, to which the Work is to be delivered or where the Work is to be carried out (if it is not to be performed at the facility of Contractor or others).
- F. "Purchaser's Superintendent" means Purchaser's authorized field representative assigned to this project so designated in writing by Purchaser. Purchaser's Superintendent is responsible for the acceptance or rejection of Work.
- G. "Specifications" means the portion of this Agreement that describes the products and services to be delivered by Contractor under this Agreement, including dimensions, components, attachments, technical and non-technical requirements and characteristics, standards, performance requirements, and tolerances. Should any conflict occur between portions of the Specifications and these terms and conditions, the Specifications shall take precedence only when and to the extent that such does not result in any way in the dilution or diminution of the rights or benefits of the Purchaser under these terms and conditions.
- H. "Subcontractor" means any person or entity having a contract with Contractor or its subcontractors for the performance of any part of the Work.
- I. "Work" means all services, labor, materials, equipment, Data, and other obligations covered by or intended for Contractor to perform or supply under this Agreement, as specified in the Purchase Order, together with miscellaneous expendable job supplies, installation related equipment and/or tools, transportation, facilities and/or services for the complete execution of the Agreement.

ARTICLE II - TERMS OF AGREEMENT

A. Agreement. The terms and conditions set forth in this document, together with the Request for Proposal and/or Purchase Order and all attachments, exhibits, revisions, and supplements thereof, shall constitute the agreement between Purchaser and Contractor (the "Agreement"). In case of any error, inconsistency or omission in the various documents of the Agreement, the matter will be submitted immediately to Purchaser, without whose decision said discrepancy shall not be adjusted by Contractor.

B. Offer and Acceptance. Contractor's acknowledgement, commencement of performance to furnish the materials, equipment, or services which are the subject of this Agreement, or any conduct by Contractor which recognizes the existence of a contract pertaining to the subject matter hereof shall constitute acceptance by Contractor of this Agreement and all of its terms and

conditions. Acceptance of this Agreement is expressly limited to Contractor's assent to all of the terms and conditions of this Agreement. Additional or different terms provided in Contractor's acceptance of Purchaser's offer which vary in any degree from any of the terms herein or expressly referenced on the face of the Request for Proposal and/or Purchase Order herewith shall be deemed material and are hereby objected to and rejected. If this Agreement shall be deemed an acceptance by Purchaser in response to an offer by Contractor and if any terms herein are additional to or different from any terms of such offer, then the issuance of this Agreement by Purchaser shall constitute an acceptance expressly conditioned upon Contractor's assent to all of the terms and conditions of this Agreement. Additional or different terms in any acknowledgement, invoice, or communication submitted by Contractor, or any attempt by Contractor to vary in any degree any of the terms of this Agreement, unless expressly agreed to by Purchaser, shall be deemed material and are hereby objected to and rejected. Any such terms proposed by Contractor, whether by offer or acceptance, shall be void unless expressly agreed to in writing by Purchaser.

C. Integration; Modification. This Agreement sets forth the entire agreement of Purchaser and Contractor concerning the subject matter hereof. No other agreements or understandings, whether written or oral, whether express or implied, shall be binding on Purchaser and Contractor. No amendment, modification, or rescission of this Agreement shall be enforceable unless the same is in writing and signed by the party against whom the terms of such amendment, modification, or rescission are sought to be enforced.

D. Non-Exclusivity. This Agreement is not exclusive, and Purchaser may at its sole discretion contract with others to perform such work as is herein contemplated, or may perform such work with its own forces.

ARTICLE III - CONTRACTOR'S PERSONNEL

A. Relationship of the Parties. In performing the Work, Contractor shall operate as and have the status of an independent contractor and shall not act as or be an agent or employee of Purchaser. As an independent contractor, Contractor shall determine the means and methods for performing the Work satisfactorily, and shall have full responsibility for complying with the Agreement. Purchaser's involvement and coordination of project activities is solely to assure Purchaser that the Work is being properly performed in a timely and efficient manner and shall not relieve Contractor of any responsibility for the Work. Nothing in this Agreement or in the performance of the Work shall be construed to create a partnership, joint venture or other joint business arrangement between Purchaser and Contractor.

B. Employees. Contractor shall employ for the Work only persons known to it to be experienced, qualified, reliable and trustworthy. At Purchaser's request, the credentials of any of Contractor's employees assigned to perform the Work shall be submitted to Purchaser in advance of such assignment. Contractor shall require all persons performing the Work at Purchaser's Site to be trained in and to comply with Contractor's policies, procedures and directives applicable to activities at Purchaser's Site, including security, environmental protection, worker health and safety, sexual harassment, access, use of controlled substances, and similar activities, such policies, procedures and directives to be no less rigorous than those of Purchaser. During the performance of the Work, Purchaser may object to any Contractor employee who, in Purchaser's opinion, does not meet these criteria. In such case, Contractor shall, at its expense and risk, immediately replace or remove such employee.

C. Supervision. Contractor and its Subcontractors shall be responsible for enforcing strict discipline and good order among their employees, and shall assume full responsibility for their employees' acts and omissions in and around Purchaser's Site. Contractor's Superintendent shall enforce all environmental protection and worker health and safety and similar requirements applicable to Contractor's Work. Contractor's Superintendent shall be thoroughly competent and experienced in the line of work to be performed. He shall represent Contractor on the job and all communications given him by Purchaser shall bind Contractor.

D. Background Checks. Contractor shall make best efforts to ensure that Contractor's employees assigned to Purchaser do not have criminal records and are not involved in criminal activity which could create a risk to Purchaser's Site, customers, and/or employees. Upon actual knowledge of a criminal record or involvement in criminal activity, Contractor shall immediately remove said employee or employees from the Work. Purchaser, at any time, may request Contractor to verify that an employee or employees does not possess a criminal record.

E. Substance Abuse. Contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace. Contractor shall make a good faith effort to ensure that all Contractor's employees, while working on Purchaser's property, will not be under the influence, purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

F. Gifts and Gratuities/Conflicts of Interest. Purchaser ("FirstEnergy") enforces policies governing the conduct of its employees in carrying out its business activities, including contact with third-party business partners. The conflicts of interest & gifts and gratuities policies generally prohibit FirstEnergy employees and/or their family members from giving or receiving gifts, favors, services, or privileges (including travel or entertainment) from existing or potential customers, suppliers, or contractors that are more than a nominal value, or that exceed the level of standard business courtesies, and the acceptance of cash, gift certificates, or loans in any amount. The conflicts of interest policy generally prohibits FirstEnergy employees and/or their family members from serving as an officer, director, employee, consultant, agent, or Buyer of a beneficial interest in an organization which has a business relationship with FirstEnergy as a supplier or contractor, if the FirstEnergy employee is in a position to influence decisions concerning the relationship. The entire text of these policies may be found within the Supply Chain Section at www.firstenergycorp.com. Suppliers and prospective suppliers to FirstEnergy are expected to be aware of and comply with these policies in their dealings with FirstEnergy employees and their family members. Any suspected or actual violations of these policies should be reported; and, may be reported anonymously and confidentially by a customer, supplier, contractor, or employee by calling the Employee Concerns Line (1-800-683-3625), 24 hours a day, 7 days a week.

ARTICLE IV - SCOPE AND PERFORMANCE OF WORK

A. Contractor shall perform the Work in accordance with good practices and quality workmanship. Contractor shall cooperate, consult and coordinate with Purchaser in the performance of the Work, and shall provide such Work in a timely manner compatible with Purchaser's schedule and in compliance with applicable laws, codes, and all regulatory requirements of governmental authorities and as otherwise set out in this Agreement or required.

B. Furnishing. Contractor shall furnish all permanent materials and equipment as specified in the Work scope, labor, supervision, installation related equipment and/or tools, miscellaneous expendable job supplies, facilities, services and transportation necessary for the successful completion of the Work (as described in the attached Specification or on the Request for Proposal or Purchase Order document as appropriate). Contractor will be responsible to perform all survey and layout work required for its Work which shall be to exact lines and grades and for any damages to or additional cost for the work of any other contractor caused by its inaccuracy. If necessary, Purchaser's Superintendent will give Contractor the location of reference base lines and bench marks.

C. Access to Work. Purchaser shall be afforded free access to Contractor's or any of its Subcontractor's Work, facilities and records, to perform surveillance and reviews of Work completion and quality, and contract cost and quality records; any such surveillance or

review performed by Purchaser or any failure by Purchaser to so perform shall in no manner reduce the responsibility and liability of Contractor or its Subcontractors or excuse them from performance. Access to a Subcontractor's facilities and records will be coordinated through Contractor.

D. Work Schedule. Contractor shall, prior to the start of the Work and as specified in the Work scope, provide to Purchaser a schedule providing sufficient details to fully describe its plan of operation for the Work and all testing and deliverables of Contractor hereunder.

E. Reporting. Purchaser may request written reports from Contractor at any time during the performance of the Work without cost to Purchaser. Contractor shall furnish such reports within seven (7) days after such requests in the manner directed, describing progress, schedule status, cost data and other matters pertaining to the Work.

F. Audit and Records. Contractor shall keep accurate and complete records and books of account showing: (1) all charges, disbursements or expenses made or incurred by it in performing the Work; and (2) compliance with laws regulating employee benefits, quality assurance, environmental and safety activities; Contractor shall preserve all such records and books of account for 3 years after completion of the Work, or longer if required by law. All such books of account and records shall be open at all reasonable times (before and after the Work is completed) for inspection and audit by Purchaser or its authorized representative without additional cost to Purchaser, and Purchaser shall have the right, upon reasonable prior notice, to audit at any time up to one year after the completion of the Work the costs, expenses, and disbursements made or incurred in connection with the Work. Contractor shall promptly reimburse to Purchaser any improper charges identified in any such audit.

G. Testing and Inspections. Work shall not be deemed complete until all tests and inspections required, if any, have been satisfactorily performed and completed and accepted in writing by Purchaser.

H. Hazard Communication. If applicable, Contractor specifically agrees to comply with all hazard communication standards promulgated by the Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1200, et. seq., the Pennsylvania Right To Know Act and similar hazard communication laws of other states, as amended from time to time, including, but not limited to, evaluating and labeling all hazardous chemicals as defined by said standards, and maintaining Material Safety Data Sheets on all such hazardous chemicals to insure that hazard information with regard to chemical hazards produced, imported, or used within the workplace is transmitted to affected employees of Contractor, its Subcontractor(s) and Purchaser. All products and materials brought on site by Contractor must be removed by Contractor upon its departure.

I. Overtime. No regularly scheduled overtime Work, or Work on Saturdays, Sundays or legal holidays shall be performed without written approval of Purchaser's Superintendent, except that such Work as may be necessary in case of emergencies or for the proper care, maintenance and protection of equipment or finished Work may be performed without Purchaser's approval at Contractor's expense and without additional cost to Purchaser.

J. Uncovering Of Work. If any Work should be covered contrary to the request of Purchaser, it must, if required by Purchaser, be uncovered for its observation and replaced, at Contractor's expense. If any other Work has been covered which Purchaser has not specifically requested to observe prior to being covered, Purchaser may request to see such Work and it shall be uncovered by Contractor. If such Work is found to be in accordance with the Agreement, the cost of uncovering and replacement shall, by appropriate change order, be charged to Purchaser. If such Work is found not to be in accordance with the Agreement, Contractor shall pay such costs.

ARTICLE V - CONTRACT PRICE AND PAYMENT

A. Net Pricing. Contractor has visited the site of the Work, examined the available Specifications, drawings, and the Agreement terms, and is familiar with the conditions in the area which would affect the performance of the Work and the terms of employment. The lump sum or unit prices for the Work are firm for all labor, professional services, expendable materials, permanent equipment and materials as specified in the Work scope, supervision (including Contractor's Superintendent and timekeeper), miscellaneous job supplies, installation related equipment and/or tools (both rented and non-rented), field and office overhead, transportation, facilities, services, Contractor's profit and any other of Contractor's costs. Unless otherwise set forth herein, no charge will be allowed for boxing, packing, crating, or carting, or any other additional charges in excess of the prices stated hereunder. All amounts referenced herein are in United States dollars.

Except to the extent otherwise provided herein, Contractor shall pay all taxes, duties, levies, and all other fees and charges imposed by any governmental entity with respect to this Agreement and the materials, equipment, and services provided hereunder. Price or prices quoted by Contractor shall include all contributions for unemployment compensation, workers' compensation, social security, and other employee benefits, and for the cost of any insurance required by this Agreement.

B. Invoicing.

1. Invoices shall be submitted to the address specified in the Purchase Order, except that invoices submitted electronically will have additional requirements. The elements of all amounts invoiced shall be shown separately, by applicable line items, and shall be classified or further broken down as Purchaser may require for accounting and payment purposes. Any taxes which are payable by Purchaser hereunder shall be shown separately on any bids and invoices sent to Purchaser. Any disputed invoice or portion thereof need not be paid, but in such case, Purchaser shall promptly notify Contractor of any rejected invoice or portion thereof with reasons for such rejection. Any invoice shall be submitted upon completion of the Work, not later than the 10th day of each month, or as otherwise mutually agreed (the payment option to be identified in the Terms of Payment on the Purchase Order and/or attached hereto).

Contractor shall forward to Purchaser, with the invoice, original and duplicate bills of lading or express receipts, signed by the carrier, for materials and/or equipment shipped by Carrier other than Purchaser's preferred carrier.

2. Invoice Charges. Invoice charges shall be allocated to appropriate accounts, a list of which will be furnished by Purchaser. For time and material Work performed by Contractor under Article XIII of this Agreement, the charges will be listed by Purchaser's Change Order documentation number (Field Change Request (FCR) Numbers, Maintenance Work Order (MWO) Numbers, Extra Work Request (EWR) Numbers, Contracted Services Change Order (CSCO) Numbers, etc.) and listed by current month and shall be supported by daily time sheets, accurately describing the Work being performed, signed by Purchaser's Superintendent showing the craft, first and last names and social security number of each worker and each piece of equipment employed on the Work. All material charges shall be supported by the original invoices or other evidence as required by Purchaser to substantiate the charges submitted.

3. Electronic Invoices. If it is reasonably able, Contractor shall utilize the Purchaser's then-current Electronic Invoice Presentment and Payment program to submit invoices and receive payment electronically from Purchaser.

C. Payment. Each invoice shall, after approval by Purchaser, be processed for payment in accordance with the Terms of Payment as set forth in the Purchase Order and/or as attached hereto for the amount of each approved invoice less any monies retained per the

Terms of Payment or under Article V (E) below. Unless otherwise set forth herein, payment terms are 2%10 Net 45 Days. Payment dates shall be calculated from the date of receipt of invoice or acceptance of the material by Purchaser, whichever is later. Payments by Purchaser shall not be deemed evidence of acceptance by Purchaser of the services or goods called for hereunder.

In any event, the costs which are to be directly reimbursed for Work performed as directed by Purchaser shall be specified in writing and agreed upon by the parties prior to the commencement of such Work. After completion of the Agreement and final acceptance of the Work, any retained monies without interest, except those retained under Article V(E) hereof, will be paid to Contractor in accordance with the Terms of Payment designated in the Purchase Order and/or as attached hereto.

D. Increases. If Contractor wishes to make a claim for an increase in the contract price or time for performance, Contractor must proceed as provided below. Any claim for an increase in the contract price or time for performance shall be based on immediate verbal notice of the occurrence of the precipitating event to Purchaser's Superintendent followed by written notice delivered to Purchaser's Superintendent within forty-eight (48) hours of the occurrence of the event giving rise to the claim. Notice of the amount of the claim and the work schedule adjustment with detailed supporting data shall be provided within seven (7) working days of such occurrence, and if earlier, two (2) hours minimum prior to the time Purchaser needs to make a Work/schedule adjustment, unless Purchaser's Superintendent allows an additional period of time to ascertain accurate cost or schedule data. Payment for such claims for increase shall be mutually agreed upon between Purchaser and Contractor and approved by Purchaser's Superintendent. Contractor shall not be entitled to make a claim for an increase in the contract price if Purchaser determines that the claim is for goods and services that are within the scope of the Work hereunder, or that the claim is for goods or services that are necessitated by the errors, acts, or omissions of Contractor.

E. Withholding.

1. If Purchaser has a claim under this Agreement, regardless of when it is discovered, including a claim that: (1) Contractor's invoice is erroneous; (2) the Work is deficient, defective or incomplete; (3) a third party claim has been asserted or there is reasonable evidence indicating the possibility of a claim; (4) Contractor fails to make a payment as and when due to a Subcontractor or supplier for materials, labor or equipment; (5) Purchaser, another contractor, subcontractor, or other party suffers damage or injury which is attributable to Contractor; or (6) Contractor has failed to supply any affidavit, release or waiver of lien which Purchaser may require pursuant to law; then Purchaser may withhold payment of, or set off the amount of its claim, costs or loss against, any amount invoiced to it. If any monies are so withheld, they shall be paid only when, without cost to Purchaser, the cause of such withholding has been eliminated. Moreover, if any monies are so withheld, Purchaser shall not be responsible for any interest payment to Contractor.

2. New Jersey Withholding If applicable, in accordance with New Jersey law, we shall withhold a portion of payments made to you (Supplier, Contractor, or similar party) for services to construct, improve, alter, or repair a building, structure, or improvement to real property unless you provide written documentation that you are a corporation or registered with the State of New Jersey.

ARTICLE VI - CONSTRUCTION PLANT, FACILITIES AND OPERATIONS

A. On-Site Facilities. Contractor will, unless otherwise specified, construct and remove all temporary buildings, structures, construction plant, change houses, portable lavatories and temporary storage buildings required for its own use or that of its Subcontractors, if any. The location of such buildings, storage areas for materials and employees' parking space, if on Purchaser's Site, will be designated by Purchaser's Superintendent.

If the Work specification indicates that Purchaser will provide the water and power source required for performance of the Agreement, Contractor shall accept these services at its own risk. Otherwise, Contractor shall be responsible for providing the water and power sources necessary for the performance of the Agreement.

When any use is to be made by Contractor or by any of its Subcontractors or by any of its or their employees for its or their convenience of any equipment, facilities, office space or apparatus (including but not limited to scaffolds, ladders, cranes, derricks, platforms, runways, bridges, floor, tools, barricades, or other facilities) which are owned, rented or leased by Purchaser or Purchaser's other contractor(s), or contracted for from other contractors, Contractor shall prior to and during such use satisfy itself as to the safety of such facilities; and Contractor hereby assumes the entire responsibility and liability for all injuries, claims, damages, or losses whatsoever resulting from the use of such equipment, facilities, or apparatus. Contractor agrees to execute all necessary documents required by Purchaser or Purchaser's other contractors, to acknowledge inspection of such equipment or apparatus prior to use.

B. Areas of Work and Non-Interference with Other Activities on Site. The area(s) designated by Purchaser's Superintendent as the construction site shall be under the control of Contractor unless otherwise agreed by Contractor and Purchaser's Superintendent. Contractor shall secure the designated construction site and shall provide barriers and warning appropriate for the safety and protection of its workers and other persons present at the construction site. Contractor shall use only the designated construction site for its Work, and shall not use other parts of Purchaser's Site for any purpose without the prior approval of Purchaser's Superintendent. If any part of the Work is to be performed on an easement or right-of-way held by Purchaser, Contractor shall limit its activities to that area and not allow its employees or Subcontractors outside such area. Contractor shall direct its employees or employees of its Subcontractors to enter and leave the premises only through access ways, and to park only in parking areas designated by Purchaser's Superintendent.

Contractor shall so conduct its work so as to avoid any necessity to curtail the operations of Purchaser's Site. Where the Work requires connection to or modification of existing facilities, Purchaser's Superintendent will arrange for Contractor to perform such Work at Purchaser's convenience and Contractor shall at all times, except when required to install such facilities, keep its employees and cause its Subcontractors to keep their employees out of, off of, and out of contact with Purchaser's Site and facilities.

Contractor shall conduct its Work so as to minimize interference with other work in progress. In case of dispute between Contractor and other contractors engaged by Purchaser, the decision of Purchaser's Superintendent coordinating the Work shall be final.

Contractor shall not permit its employees or the employees of any of its Subcontractors to operate the existing Purchaser's Site or any of its facilities or to perform maintenance work on the existing Purchaser's Site or any of its facilities, except such maintenance work as is necessary for construction purposes.

C. Responsibility for Materials and Work Prior to Acceptance. Contractor shall receive, check in, unload, store, handle and protect all materials to be used, furnished or erected by Contractor or its Subcontractors. The property being used, furnished and/or erected, installed or constructed under the Agreement shall be considered to be in the care, custody and control of Contractor and Contractor shall be responsible for all materials and Work until permanently placed, installed or constructed and accepted by Purchaser.

Contractor shall satisfactorily dispose of all rubbish resulting from the operations under this Agreement on a day-to-day basis and upon completion of the Work shall perform all work necessary to restore territory embraced within Purchaser's Site of its operations

to at least as good order and condition as at the beginning of the Work under the Agreement.

D. Security and Safety. Contractor shall take the necessary precautions to render the Work secure in order to decrease the probability of accident from any cause and to avoid delay in completion of the Work. Contractor shall use proper safety appliances and provide first aid treatment and ambulance service for emergency treatment of injuries and shall comply with all rules, laws, and regulations of the United States of America, the State of Ohio, or any political subdivision or duly constituted governmental authority with regard to the safe performance of the Work.

Contractor shall provide temporary fire protection facilities to the extent required by Purchaser during the construction period. Contractor may be working adjacent to or concurrent with Purchaser's operations or other construction activities. Contractor shall maintain close cooperation and flexible working arrangements with Purchaser in consideration of adjacent structures and work. Contractor shall maintain close cooperation with other contractors working at the site.

Upon commencing Work, Contractor shall establish and maintain sanitary facilities for its employees and those of its Subcontractors, to the extent such facilities are not provided by Purchaser and in conformity with local and state regulations. Contractor will remove these facilities upon completion of the Agreement and clean the site to Purchaser's satisfaction.

Purchaser will at its discretion provide a security guard at the entrance and exits to the site who shall have the right to check all persons entering and leaving the site, check all automobiles, cars and trucks and carry out such control of persons and vehicles as deemed necessary.

E. Sales Prohibited. Contractor is advised that the sale of anything (i.e. food, beverages, articles of clothing, etc.) on Purchaser's Site by Contractor's or Subcontractor's personnel is strictly prohibited.

F. Arrival and Departure of Contractor's Tools and Materials

1. Mobilization:

Contractor shall provide the necessary resources to receive all material or equipment Contractor or its Subcontractors have shipped to Purchaser's Site.

Contractor shall be responsible for providing Purchaser's Superintendent with the detailed packing lists of all tools, equipment, and materials Contractor is bringing onto the jobsite. The list(s) shall have been provided to Purchaser's Superintendent prior to the time the shipment of such tools, equipment, and materials arrive at the site.

Contractor's detailed packing lists supplied to Purchaser shall distinguish between tools, equipment, and/or materials that are to be used in firm price Work versus those that are to be used for Cost Reimbursable Work (T&M Work). For Cost Reimbursable designated tools, equipment, and/or materials Contractor shall, where known, identify the specific Cost Reimbursable Work associated therewith and itemize such tools, equipment, and/or materials on separate forms.

NOTE: Contractor may use Purchaser's supplied form or Contractor's own form as long as the same minimum information contained on Purchaser's form is on Contractor's form(s).

2. Demobilization

Contractor shall provide to Purchaser proper verification of ownership of all tools, equipment, and materials being removed from the jobsite at anytime.

Contractor shall prepare and submit an itemized list of the tools, equipment, and materials leaving the jobsite for each individual shipment. The forms shall be signed by Contractor's Superintendent signifying that everything listed on the form(s) as being removed from the jobsite is the property of Contractor.

Contractor shall prepare sufficient copies of the forms to provide at minimum one copy for Purchaser's Superintendent and one copy to be left with the security guard when leaving the jobsite.

Contractor shall be responsible for providing at least a minimum 48 hour notification of the tools, equipment, and materials that are being readied for shipment off the jobsite.

Contractor shall, prior to beginning to pack and load tools, equipment, and materials for shipment off the jobsite, contact Purchaser's Superintendent to determine if Purchaser desires to be present to monitor the packing and loading process. Should Contractor fail to notify Purchaser's Superintendent prior to packing and loading any shipment, thus resulting in Purchaser's inability to verify the tools, equipment, and materials being shipped, all costs to redo the entire loading process from the beginning will be to Contractor's account.

Purchaser retains the sole option to perform a total or partial ownership verification audit of all Contractors' shipments leaving the jobsite.

ARTICLE VII - INTELLECTUAL PROPERTY RIGHTS

A. Ownership of Work and Data. The Work and all Data associated with the Work, whether or not patentable, registrable as a copyrightable work, or registrable as a trademark or service mark, shall become the property of Purchaser and Purchaser shall own all intellectual property rights therein (including the rights to any patent, trademark or service mark, trade secret, and copyright therein). Contractor hereby agrees that any materials and works of authorship conceived or written by Contractor during the term of this Agreement that pertain in any material respect to the Work shall be done as "work made for hire" as defined and used in the Copyright Act of 1976, 17 USC §1 et seq., and that Purchaser, as the entity for which the work is prepared, shall own all right, title and interest in and to such materials, including the entire copyright therein. To the extent that any such materials are not deemed to be a "work made for hire," Contractor will assign to Purchaser ownership of all right, title, and interest in and to such materials, including ownership of the entire copyright therein.

B. Infringement. Contractor warrants that the goods and services provided by Contractor hereunder are and will be original, do not and will not infringe on or misappropriate any United States or foreign patent, copyright, trademark, or other intellectual property rights of any third party, and have not been and will not be previously assigned, licensed or otherwise encumbered. If the Work or any portion thereof is held to constitute an infringement or misappropriation of the intellectual property rights of a third party, Contractor shall, at its expense and within a reasonable time, either (1) secure for Purchaser the right to use the Work or any portion thereof which is said to be infringing by procuring for Purchaser a license or otherwise, or (2) replace the Work or such portion thereof with non-infringing Work that meets the requirements of this Agreement, or (3) remove such infringing Work or such portion thereof, as Purchaser may elect, and refund the sums paid therefor by Purchaser, together with any out-of-pocket costs incurred by Purchaser in connection with its purchase and use of the infringing Work, all without damage or injury to Purchaser's other property.

C. Data Furnished by Purchaser. All Data furnished by Purchaser in connection with the Work shall remain Purchaser's exclusive property. Contractor shall not use Purchaser-furnished Data for any purpose other than for the Work. Contractor shall: (1) sign and deliver a written itemized receipt for all Purchaser-furnished Data and shall be responsible for its safekeeping, and (2) return such Purchaser-furnished Data and all copies thereof to Purchaser upon completing the Work.

ARTICLE VIII - WARRANTY

A. Warranty. Contractor warrants that all equipment, materials and services furnished by Contractor hereunder will fully conform with the Specifications and the terms of this Agreement, and with all drawings, samples, and other descriptions of Purchaser, will be of good design, material, and workmanship, free from defects, and fit for the ordinary purposes for which such materials, equipment, and services are used or intended and for any particular purpose of Purchaser of which Contractor is aware, and produced or supplied in compliance with applicable law. Unless otherwise specified and agreed to in writing by Purchaser, the foregoing warranties shall continue in effect for a period of two (2) years from the date of initial operation of the equipment or, in the case of non-operational materials or services, from the date of performance of the Work and final acceptance of same by Purchaser. "Date of initial operation of the equipment" means the day on which the equipment is first operated as an integral part of Purchaser's Site.

B. Replacement and Repair. When materials or equipment are modified, adjusted, repaired or replaced, or a service is reperformed, the modified, adjusted, repaired or replaced materials and equipment and the reperformed service will be subject to the same warranties, the same conditions and the same remedies provided for the original materials, equipment, or services, provided that the warranty period for the modified, adjusted, repaired or replaced materials and equipment, and reperformed services, shall extend from the date of modification, adjustment, repair, replacement or reperformance of services. All such defective or non-conforming work shall be removed from Purchaser's Site if necessary. Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.

C. Remedies. If any materials, equipment, and services provided hereunder do not comply with the foregoing warranties, Purchaser may, at its sole option, and in each case at Contractor's sole expense: (1) reject such materials, equipment, and services; (2) require Contractor to repair or correct such materials, equipment, and services as necessary to render them in conformance with the foregoing warranties, and consistent with Purchaser's time schedule; (3) return such materials, equipment, and services and receive a full refund of the contract price; or (4) make any corrections required to cause such materials, equipment, and services to fully fulfill the foregoing warranties and charge Contractor for the costs incurred by Purchaser thereby. Contractor shall reimburse Purchaser for all expenses reasonably incurred by Purchaser in connection with a breach of the foregoing warranties (including transportation, storage, administrative, and other incidental expenses of Purchaser). If Contractor does not remove defective or non-conforming materials and equipment within a reasonable time fixed by written notice from Purchaser, Purchaser may remove and store such materials or equipment at the expense of Contractor. If Contractor does not pay the cost of such removal and storage within ten days thereafter, Purchaser may, upon ten additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs. The remedies set forth in this Agreement are cumulative, and shall not preclude any other remedy available to Purchaser at law or in equity.

D. Title. Contractor also warrants that the material and/or equipment is free of defects of title. Such warranty of title shall continue without limitation as to time.

E. Survival. Contractor agrees that all of its warranties shall survive performance and acceptance of and payment for the goods and services provided hereunder and shall inure to the benefit of Purchaser, and to all subsequent purchasers of the goods and services provided hereunder.

F. Acceptance Tests. Purchaser shall be notified of and may witness any acceptance tests or inspections that are or may be agreed upon. Contractor shall not be relieved of its responsibility for performance in accordance with this Agreement by reason of Purchaser's or Contractor's conducting or witnessing tests or inspections.

ARTICLE IX - INDEMNITY

A. Contractor's Indemnity. Contractor shall indemnify, defend, and hold harmless Purchaser, its subsidiaries and affiliates, and their respective agents, officers, employees, successors, assigns, and indemnitees (the "Indemnified Parties"), from and against any and all losses, costs, damages, claims, liabilities, fines, penalties, and expenses (including, without limitation, attorneys' and other professional fees and expenses, and court costs, incurred in connection with the investigation, defense, and settlement of any claim asserted against any Indemnified Party or the enforcement of Contractor's obligations under this Article IX) (collectively, "Losses"), which any of the Indemnified Parties may suffer or incur in whole or in part arising out of or in any way related to the Work performed or to be performed, the presence of Contractor and/or its Subcontractors at Purchaser's Site, and/or the actions or omissions of Contractor and/or its Subcontractors, including, without limitation, Losses relating to: (1) bodily or mental injury to or death of any person, including, without limitation, any person employed by Purchaser, by Contractor, or by any Subcontractor; (2) damage to or loss of use of property of Purchaser, Contractor, any Subcontractor, or any third party; (3) any contractual liability owed by Purchaser to a third party; (4) any breach of or inaccuracy in the covenants, representations, and warranties made by Contractor under this Agreement; and/or (5) any violation by Contractor or any Subcontractor of any ordinance, regulation, rule, or law of the United States or any political subdivision or duly constituted public authority; subject, however, to the limitations provided in Section IX(B) (for Work performed in Pennsylvania), or Section IX(C) (for Work performed in states other than Pennsylvania). Purchaser shall be entitled to control the defense of any action indemnified hereunder, with legal counsel of its own choosing.

B. WITH RESPECT TO WORK PERFORMED OR TO BE PERFORMED WITHIN THE COMMONWEALTH OF PENNSYLVANIA, Contractor's indemnity obligations under Section IX(A) shall apply in each case whether or not caused or contributed to by the fault or negligence of any or all of the Indemnified Parties, and Contractor expressly agrees that Contractor will indemnify, defend, and hold harmless the Indemnified Parties in connection with Section IX (A) even if any such Losses are caused in whole or in part by the sole or concurrent negligence of one or more of the Indemnified Parties. Contractor agrees to waive and release any rights of contribution, indemnity, or subrogation it may have against any of the Indemnified Parties as a result of an indemnity claim asserted by another Indemnified Party under Section IX(A). Section IX(A) is intended to be an express written contract to indemnify as contemplated under Section 303(b) of the Pennsylvania Workers' Compensation Act (or any successor to such provision).

C. WITH RESPECT TO WORK PERFORMED OR TO BE PERFORMED AT ANY LOCATION WHICH IS NOT WITHIN THE COMMONWEALTH OF PENNSYLVANIA, Contractor's indemnity obligations under Section IX(A) shall not apply to any Losses to the extent such Losses are found to have been initiated or proximately caused by or resulting from the negligence or willful misconduct of any of the Indemnified Parties.

D. Waiver of Immunities. If an employee of Contractor or its Subcontractor, or such employee's heirs, assigns, or anyone otherwise entitled to receive damages by reason of injury or death to such employee, brings an action at law against any Indemnified Party, then Contractor, for itself, its successors, assigns, and Subcontractors, hereby expressly agrees to waive any provision of any workers' compensation act or other similar law whereby Contractor could preclude its joinder by such Indemnified Party as an additional defendant, or avoid liability for damages, contribution, defense, or indemnity in any action at law, or otherwise. Contractor's obligation to Purchaser herein shall not be limited by any limitation on the amount or type of damages, benefits or compensation

payable by or for Contractor under any worker's compensation acts, disability benefit acts, or other employee benefit acts on account of claims against Purchaser by an employee of Contractor or anyone employed directly or indirectly by Contractor or anyone for whose acts Contractor may be liable.

E. No Impairments. Contractor's obligations under this Article IX shall not be limited to the extent of any insurance available to or provided by Contractor.

ARTICLE X - INSURANCE

A. Contractor's Insurance. Contractor agrees to secure and maintain in force minimum policies of insurance of the types listed below and shall furnish to Purchaser, prior to starting Work and throughout the duration of the Work, certificates of insurance evidencing current coverage listed below. These certificates shall be endorsed with substantially the following language:

"This policy will not be canceled or allowed to lapse, and no change shall be made in this policy which alters, restricts or reduces the insurance provided or changes the name of the insured without first giving at least thirty (30) days' notice in writing to FirstEnergy Service Company, Insurance Risk Management, 76 South Main Street, Akron, Ohio 44308, with receipt of notice acknowledged."

1. Commercial General Liability (CGL) insurance including products-completed operations, independent contractors, and contractual liability coverages. Coverage under this policy shall have limits of liability of not less than \$2,000,000 per occurrence, combined single limit for bodily injury (including disease or death), personal injury, and property damage (including loss of use) liability.

2. Automobile Liability insurance, including non-ownership and hired car endorsement, with minimum limits of \$1,000,000 per occurrence, combined single limit.

3. Worker's Compensation coverage in the statutory amounts under the worker's compensation act(s) of the location(s) in which the Work is to be performed, for the current period.

4. Employer's Liability with a minimum limit of \$1,000,000 for each accident or illness.

Any of the above per-occurrence limits may be satisfied by a combination of primary and excess liability coverage.

B. Additional Insured. FirstEnergy Corp. and its subsidiaries and affiliates shall be included as an additional insured for CGL and Automobile Liability policies, it being understood that said policies shall be primary and non-contributory with insurance carried by Purchaser and shall contain a cross-liability clause providing severability of interests so that coverage will respond as if separate policies were in force for each insured. A signed copy of the endorsement adding FirstEnergy Corp. and its subsidiaries and its affiliates as an additional insured shall be attached to the certificate of insurance providing general liability coverage.

C. Lapse of Coverage. In the event of cancellation or lapse of or prohibited change in any policy for which a certificate is required to be furnished under this Agreement, Purchaser shall have the right to suspend the work of Contractor until the policy and certificates in evidence thereof are reinstated or arrangements acceptable to Purchaser are made pending issuance of new policies and certificates.

If any such insurance shall be about to lapse or be canceled, Contractor shall, at least thirty (30) days before coverage thereunder ceases, obtain a new policy with like coverage, and if Contractor fails to do so, Purchaser may obtain insurance protecting it from the hazards covered by such lapsed or cancelled policy, and all premiums and expenses of such insurance shall be charged against Contractor and shall be a legitimate deduction from any sum due it from Purchaser.

D. Waiver of Subrogation. Contractor and any of its Subcontractors shall waive and hereby waives any rights of subrogation which they or any of their insurers may have against Purchaser, its affiliates, and each non-affiliated company disclosed in this Agreement, their respective agents or employees.

E. Performance Bond. Purchaser may, at any time, require Contractor to secure a performance bond with such conditions and limits as may be prescribed by Purchaser. Purchaser shall reimburse Contractor for the cost of such bond.

ARTICLE XI - PAYMENT OF ACCOUNTS; WAIVER OF LIEN RIGHTS

A. Contractor shall promptly pay all claims for labor, material, services, and other expenses incurred by it and its Subcontractors in connection with the Work.

B. Waiver of Lien Rights. To the extent permitted by law, Contractor, for itself and anyone else acting or claiming through or under it, does hereby expressly waive and relinquish all right to file a mechanics' or materialmen's lien, or notice of intention to file any lien, and agrees that no mechanics', materialmen's, or similar lien shall be filed or maintained against any property where the Work is to be performed, or any interest of Purchaser in such property, by or in the name of Contractor or any Subcontractor, materialman or laborer acting or claiming through or under Contractor for Work performed or materials furnished in connection with this Agreement. Contractor further agrees that it will defend, indemnify and hold Purchaser harmless from and against any and all loss, cost, expense (including attorneys' fees and costs of defense), liability, claim or demand arising from any mechanics', materialmen's or similar lien of Contractor or any Subcontractor, sub-subcontractor, materialman, supplier or laborer acting or claiming through or under Contractor for Work performed or materials furnished in connection with this Agreement.

C. No-Lien Agreement. If requested by Purchaser, Contractor shall execute a Waiver of Liens Agreement consistent with the foregoing provisions of this Article, and acceptable in form and substance to Purchaser, in recordable form, which Purchaser may file in the jurisdiction(s) in which the Work will be performed.

D. Right to Withhold. Purchaser may require evidence satisfactory to it from Contractor that all Work in progress, Work done or delivered, or service performed, for which Purchaser has made a payment, are free and clear of mechanic's', materialmen's, and other liens, attachments, claims, demands, charges or other encumbrances. If such evidence is not promptly submitted to Purchaser, it may withhold payments due Contractor in amount sufficient to cover any potential claim or it may terminate this Agreement for default. Prior to invoicing final payment, Contractor and its Subcontractors shall sign, upon Purchaser's request, a release of liens in a form prepared by Purchaser and furnished to Contractor. Contractor shall, within thirty (30) days, cause to be discharged and terminate any mechanics' or materialmen's lien filed by any of its Subcontractors, sub-subcontractors, materialmen, laborers or suppliers, or shall bond against the same at its own cost and expense with a bond satisfactory to Purchaser.

E. Subcontracts. Every subcontract for any portion of the Work shall contain an undertaking by the Subcontractor similar in effect to this Article. It is intended by the parties that Contractor's agreement to waive and relinquish lien rights as above provided shall be effective only in those jurisdictions which permit such agreement to be made. The fact that some jurisdictions in which Work will be performed do not permit such waiver shall not affect the enforceability of this waiver in those jurisdictions that do permit such waivers. The above obligations of Contractor and/or its Subcontractors are supplementary to and not a substitute for rights of Purchaser, its subsidiaries and affiliates, under the provisions of the Mechanics Lien Laws of the jurisdiction in which the Work is being performed.

ARTICLE XII - DEFAULT

A. Events of Default; Termination. Contractor agrees that if: (1) Contractor fails to comply with applicable laws and ordinances; or

(2) Contractor assigns or subcontracts this Agreement or any part hereof without the consent of Purchaser; or (3) Contractor otherwise fails or refuses to perform its obligations under this Agreement in any respect; or (4) Contractor fails to provide Purchaser upon request with adequate assurance of future performance of this Agreement (including Contractor's failure to comply with Purchaser's instructions under paragraph (C) of this Article XII); or (5) Contractor becomes insolvent or makes a general assignment for the benefit of creditors or admits in writing its inability to pay debts as they mature or if a trustee or receiver of Contractor or of any substantial part of Contractor's assets is appointed by any court or proceedings instituted under any provisions of the Federal Bankruptcy Code or any state insolvency law by or against Contractor are acquiesced in or are not dismissed within thirty (30) days or result in an adjudication in bankruptcy or insolvency; or (6) the materials, equipment, and/or services to be sold by Supplier hereunder or any part thereof shall in the reasonable opinion of Purchaser be unnecessarily delayed by Supplier, then Purchaser may cancel, without liability to Supplier, all or any part of this Agreement and/or pursue any further remedies available at law or in equity.

B. Remedies. In the event of termination by Purchaser for cause, Contractor shall, at the option of Purchaser, deliver to Purchaser the raw materials and work-in-process required in order to perform under this Agreement. Purchaser shall have the right, at its election and without prejudice to any other remedies, to continue and complete the work or any part thereof, by contract or otherwise, deducting the cost of such completion from the contract price, or in the alternative paying to Contractor the reasonable costs of such raw materials and work-in-process. In the event of such termination, Purchaser shall not be required to obtain the lowest figure for completing the Work but may make such expenditures as in its sole judgment shall best accomplish such completion. The expense, including additional management and administrative services incurred by Purchaser for completing the Work, for remedying defective Work and damage done by Contractor and any other expenses sustained by Purchaser by reason of Contractor's default and/or failure to perform shall be charged to Contractor. Purchaser's rights and remedies set forth in this Article are cumulative and not exclusive, are in addition to any other rights and remedies provided at law, in equity, or under this Agreement, and they may be pursued separately or concurrently as Purchaser determines. Contractor shall, if requested to do so in such written notice of termination or a written notice thereafter given, immediately remove its employees, representatives, tools, equipment, and other property from Purchaser's Site. If Contractor should fail to effect such removal within a reasonable period, they may be removed by Purchaser at Contractor's expense. In any such event, Supplier shall be liable to Purchaser for any and all losses, damage and excess cost in completing said work caused by its failure to carry out this Agreement. All of Purchaser's rights and remedies under this Agreement shall be cumulative and not exclusive.

C. If Contractor fails or refuses to supply an adequate administrative and supervisory force, a sufficient compliment of properly skilled workmen, or adequate construction equipment, tools or materials, or fails to prosecute the Work expeditiously and efficiently in accordance with the agreed upon Work schedule, then Purchaser may, without prejudice to any other of its rights or remedies, and by written notice to Contractor, direct Contractor to increase or supplement its working force and equipment and/or perform the Work on an overtime or multiple shift basis without added cost to Purchaser and to such an extent as to give reasonable assurance of compliance with the schedule of completion and the required quality of work.

ARTICLE XIII - CHANGES TO SCOPE OF WORK

Purchaser may at any time, by written notice, make changes altering, adding to, or reducing the scope of the Work, or changing the specifications, packing and shipping instructions, time and/or place of delivery, quantities, sequencing, or accelerating work under this Agreement. Contractor's performance of additional Work as related to the changes shall in no way be a basis of claims involving loss of efficiency on any Work performed or to be performed under this Agreement. Performance of extra Work shall not be a basis for schedule extensions unless such extensions are agreed upon at the time of award of the additional Work. Such changes shall be initiated by written order of Purchaser and Contractor shall submit the proposed cost or credit to Purchaser for any changes in the Work within fifteen (15) working days after receipt of the written order for Purchaser's approval. No change to the cost or schedule of the Work shall be binding upon Purchaser without Purchaser's written approval. Contractor shall be paid for any additional Work by an amount to be determined, at Purchaser's option, by (a) unit prices, (b) lump sums, or (c) other methods of reimbursement, in each case as designated in the Purchase Order and/or the attachments thereto or as subsequently agreed upon. Purchaser may authorize minor changes in the Work not involving an adjustment in the contract price or time for performance, which are consistent with the overall intent of the Agreement.

ARTICLE XIV - CANCELLATION AND SUSPENSION

A. Right to Terminate or Suspend. Purchaser may terminate this Agreement, or suspend Contractor's performance of the Work, in whole or in part, at any time without cause and for its own convenience, by giving Contractor written notice. After receiving a notice of suspension or termination and except as otherwise directed by Purchaser, Contractor shall: (1) stop the Work on the date and to the extent specified therein; (2) place no further orders or subcontracts except as may be necessary for completing such portions of the Work as have not been terminated or suspended; (3) terminate all orders and subcontracts to the extent that they relate to the portions of the Work terminated (or suspend all orders and subcontracts to the extent that they relate to the portions of the Work suspended); and (4) take such action as may be necessary or as directed by Purchaser to protect and preserve all property related to the Work which is in Contractor's possession and any other items in which Purchaser has or may acquire an interest.

B. Deferral of Deliveries. Purchaser may defer delivery of materials, equipment, and any other portion of the Work, at any time for its own convenience, by giving Contractor written notice. Contractor will adjust its manufacturing schedules consistent with Purchaser's deferral request. Materials and equipment on which delivery is deferred by Purchaser may be placed in storage by Contractor for Purchaser's account, and reasonable charges n direct expenses in connection therewith will be paid by Purchaser.

C. Compensation. If this Agreement is terminated for convenience of Purchaser, Purchaser shall pay Contractor its actual, necessary, reasonable and verifiable expenses as a direct consequence of such termination; however, Purchaser shall be entitled to all the Work paid for by it or, at Purchaser's option, Contractor shall attempt to liquidate the same, and Purchaser shall be entitled to the benefits of any value received. Contractor shall furnish all necessary documentation to substantiate its expenses to Purchaser's satisfaction. Contractor shall make every reasonable effort to mitigate costs. Purchaser shall not be liable for lost profit, anticipated profit or unabsorbed indirect costs or overheads. Purchaser's liability for termination expenses shall not exceed in any event, the unpaid balance of the contract price. The compensation described in this paragraph shall be Contractor's sole and exclusive compensation and remedy if this Agreement is terminated for convenience. In no event will indirect expenses, overhead expenses, or anticipated profit be reimbursed by Purchaser. Any payments made by Purchaser as a result of postponement of performance shall be credited to payment of the contract price.

D. Adjustment of Price and Schedule. Suspension hereunder shall not affect the contract price or the period of performance, unless Contractor experiences a cost increase or time delay as a result of such suspension and notifies Purchaser in writing detailing such effect(s). Such notification shall be filed with Purchaser within thirty (30) days after such suspension is terminated or extended, and

shall be accompanied by sufficient documentation to prove a cost increase or time delay, as the case may be.

ARTICLE XV - COMPLIANCE WITH LAWS, REGULATIONS, AND PERMITS

A. During the performance of this Agreement, Contractor shall strictly comply with all federal, state and local laws, rules or regulations and executive orders applicable to the Work.

B. Without limiting the foregoing, and unless exempted under the rules, regulations and relevant orders (41 CFR Chapter 60) of the Secretary of Labor, in connection with the Work, Contractor agrees as follows:

1. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the U.S. Department of Labor setting forth the provisions of this nondiscrimination clause.

2. Contractor shall state, in all solicitations or advertisements for employees placed by or on its behalf, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

3. Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement, contract or understanding, a notice to be provided by the U.S. Department of Labor, advising the labor union or workers' representative of Contractor's commitments under the following provisions, as amended from time to time:

a. Section 202 of Executive Order 11246 (Equal Opportunity);

b. Executive Order 11701 (Employment of Veterans);

c. Executive Order 11758 (Employment of the Handicapped);

d. Executive Order 11141 (Employment Discrimination Because of Age); and

e. Executive Order 11625 and Public Law 95-507 (Utilization of Disadvantaged Business Enterprises),

and shall post copies thereof in conspicuous places available to employees and applicants for employment.

C. Because Purchaser (or if applicable, one or more affiliates or non-affiliated companies) is a supplier of electricity and/or services to the U.S. government, it must include, and Contractor shall comply with, the below listed clauses from the Federal Acquisition Regulation ("FAR"), 48 Code of Federal Regulations Chapter 1, as amended from time to time, if the applicable criteria specified in the FAR (those currently applicable are summarized parenthetically) are met. If Contractor's subcontracts meet such criteria, Contractor shall include the terms or substance of the applicable clause in its subcontracts. If the provisions of this paragraph C conflict with the balance of the Agreement, this paragraph C shall prevail.

1. 52.203-6 Restrictions on Subcontractor Sales to the Government (required in all subcontracts under this Agreement which exceed \$100,000);

2. 52.203-7 Anti-Kickback Procedures (required in all subcontracts under this Agreement which exceed \$100,000, other than those for commercial items);

3. 52.204-2 Security Requirements (required in all subcontracts under this Agreement which involve access to classified information);

4. 52.219-8 Utilization of Small Business Concerns (required in all non-personal subcontracts with a value greater than \$100,000);

5. 52.219-9 Utilization of Small Business Concerns will be included in all subcontracts that offer further subcontracting opportunities, and that Purchaser will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction) to adopt a subcontracting plan that complies with the requirements of this clause;

6. 52.222-4 Contract Work Hours and Safety Standards Act-Overtime Compensation (required in all subcontracts exceeding \$100,000, unless otherwise exempted);

7. 52.222-26 Equal Opportunity (required in all contracts/subcontracts; however, if the cumulative value of nonexempt Federal contracts/subcontracts is \$10,000 or less in any 12 month period, including the 12 months preceding the award, the contractor/subcontractor is exempt from the clause requirements);

8. 52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (required in all contracts/subcontracts with a value of \$10,000 or more);

9. 52.222-36 Affirmative Action for Workers with Disabilities (required in all contracts/subcontracts with a value of \$10,000 or more);

10. 52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (required in all contracts/subcontracts with a value of \$10,000 or more);

11. 52.223-14 Toxic Chemical Release Reporting (Except for acquisitions of commercial items, and unless otherwise exempt, this clause is required for competitive subcontracts expected to exceed \$100,000, including all options, and in any resultant subcontract exceeding \$100,000, including all options);

12. 52.225-13 Restrictions on Certain Foreign Purchases (required in all subcontracts for contracts with a value exceeding \$2,500, unless otherwise exempted);

13. 52.222-11 Subcontracts (Labor Standards) (required in all service contracts in excess of \$2,000 for construction within the United States) This provision requires that the following clauses be inserted into contracts meeting the criteria: Davis-Bacon Act, Contract Work Hours and Safety Standards Act-Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination-Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility.

14. 52.222-41 Service Contract Act of 1965, as Amended (required in all service contracts subject to the Act (i) which exceed \$2,500; or (ii) which are for an indefinite dollar amount and the contracting officer does not know in advance that the contract amount will be \$2,500 or less).

D. Contractor shall comply with the Department of Commerce Export Administration Regulations ("EAR") in 15 CFR Chapter VII, subchapter C, including 15 CFR Section 734.2 which prohibits the export or release of controlled technology and/or software to foreign nationals within the United States who are not lawfully admitted to the United States for permanent residence. Contractor shall confirm that these regulations either do not apply to Contractor's activities under the terms of this Agreement or that Contractor has procedures to ensure compliance. If Contractor is directly or indirectly employing a foreign national not currently lawfully admitted to the United States for permanent residence to perform work under this Agreement, Contractor warrants to Purchaser that such employment does not violate the foregoing regulations.

E. FOREIGN CORRUPT PRACTICES ACT PROVISIONS The following provisions shall apply to Contractor (unless it is a foreign

concern) if it performs or obtains any of the Work in a foreign country:

1. All payments to Contractor shall be by check or bank transfer only. No payment shall be in cash or by bearer instrument and no payment shall be made to any corporation or person other than Contractor. All payments due hereunder shall be made to Contractor at its principal place of business in the United States, even if Contractor performs or obtains the Work in a foreign country.
2. Contractor represents that it is familiar with the Foreign Corrupt Practices Act (the "FCPA") and its purposes; and that, in particular, it is familiar with the prohibition against paying or giving of anything of value, either directly or indirectly, by an American company to an official of a foreign government for the purpose of influencing an act or decision in his official capacity, or inducing him to use his influence with that government, to assist a company in obtaining or retaining business for or with, or directing business to, any person.
3. Contractor represents that none of its partners, purchasers, principals, and staff members are officials, officers, or representatives of any government or political party or candidates for political office. Contractor shall not use any part of its compensation for any purpose, and shall take no action, that would constitute a violation of any law of the United States (including the FCPA) or of any jurisdiction where it performs services or manufactures or sells goods. Purchaser represents that it does not desire and will not request any Work by Contractor that would or might constitute any such violation.
4. Purchaser may terminate the Contract for default at any time, without any liability or obligation, if it believes, in good faith, that Contractor has violated this Article. Any action by Contractor which would or might constitute a violation of the FCPA, or a request for such action from Contractor's representative, shall result in immediate termination of the Contract for default. Should Contractor ever receive, directly or indirectly, from any Purchaser representative a request that Contractor believes will or might violate the FCPA, Contractor shall immediately notify Purchaser's general counsel.
5. Purchaser may disclose the existence and terms of the Contract, including the compensation provisions, at any time, for any reason and to whomever Purchaser's general counsel determines has a legitimate need to know the same including, without limitation, the United States government, the government of any country where the Work is performed or obtained, and any regulatory agency with jurisdiction over Purchaser.
- F. Contractor shall comply with the Occupational Safety and Health Act of 1970 and all rules, regulations, standards, requirements, and revisions thereof or adopted pursuant thereto.
- G. Unless this Agreement otherwise provides, Contractor shall, at its own expense, obtain from appropriate governmental authorities all permits, inspections and licenses which are required for the Work and comply with all rules and regulations of insurance companies which have insured any of the Work.
- H. Any costs, fines, penalties, awards, damages or other liabilities associated with any violations of this Article shall be borne and paid by Contractor.
- I. If applicable, Contractor agrees to comply with all Hazard Communication Standards promulgated by the Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1200, et seq., as amended, to insure that chemical hazards produced, imported, or used with the workplace are evaluated, and that hazard information is transmitted to affected employees of Contractor, of any subcontractor or of Purchaser.
- J. Contractor acknowledges and agrees that its employees, if given access to FirstEnergy's (FirstEnergy Corp., its subsidiaries and affiliates) Information and Control Systems, may be required to sign an agreement governing Contractor's and such employees' use of such systems.
- K. Contractor shall comply with all requirements of any governmental regulatory codes of conduct applicable to the work performed under this Agreement, including the FERC Standards of Conduct (Order No. 2004); New Jersey BPU Affiliate Relations, Fair Competition, and Accounting Standards (N.J.A.C. 14:4-5.1 et seq.); Ohio Corporation Separation Rules (O.A.C. 4901:1-20-16); and Pennsylvania PUC Competitive Safeguard regulations (52 Pa. Code §§ 54.121 and 54.122); or any successor to those provisions.
- L. Contractor shall comply with all requirements of Executive Order 13201 (E.O. 13201) mandating Government contractors and subcontractors to post to inform their employees that under Federal law they have certain rights related to union membership and the use of union dues and fees.

ARTICLE XVI - SET-OFF

Purchaser shall be entitled at all times to set-off any amount owing from Contractor to Purchaser or any affiliate of Purchaser against any amount payable by Purchaser hereunder, and in no event shall Purchaser be liable for interest.

ARTICLE XVII - LIMITATION OF LIABILITY

Under no circumstances shall Purchaser, its subsidiaries and affiliates, be liable for any anticipated profits or for incidental or consequential damages.

ARTICLE XVIII - ASSIGNMENT AND SUBCONTRACTS

A. Contractor may not assign any rights or claims, or delegate any duties under this Agreement, in whole or in part, without the prior written consent of Purchaser, which may be withheld at Purchaser's sole discretion. In the event of any assignment or delegation permitted hereunder, Contractor shall continue to be liable for the performance of its obligations hereunder. For purposes of this Agreement, the term "assignment" shall include a transfer of Contractor's rights hereunder, and/or a succession to its obligations hereunder (i) by operation of law, including a merger, consolidation, corporate reorganization, reclassification or liquidation of Contractor or a sale of all or substantially all of Contractor's assets, or (ii) by a change in the control of Contractor. As used herein, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of Contractor's management and policies, whether through ownership of or the right to vote a majority of the voting stock in the case of a corporation, or the comparable interest in the case of any other entity, or by contract, or otherwise.

B. If Contractor proposes to subcontract any of the Work hereunder, it shall submit to Purchaser the name of each proposed Subcontractor(s) prior to engaging such Subcontractor, with the proposed scope of the Work to be undertaken and such information about the Subcontractor(s) as Purchaser may reasonably request. Purchaser may reject any and all Subcontractors at its absolute discretion.

ARTICLE XIX - NON-WAIVER

The delay or failure of either party to assert or enforce in any instance strict performance of any of the terms of this Agreement or to exercise any rights hereunder conferred, shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights at any later time or on any future occasion.

ARTICLE XX - PROHIBITION OF PUBLICITY

Contractor shall not refer to this Agreement or reference Purchaser, its subsidiaries and affiliates, directly or indirectly, in its advertising or promotional materials without express written consent of Purchaser.

ARTICLE XXI - CONFIDENTIALITY

A. Contractor acknowledges that in the course of this engagement it may have access to and/or be in possession of Confidential Information of Purchaser. "Confidential Information" shall include scientific and technical information, formulas, devices, concepts, inventions, designs, drawings, methods, techniques, computer software, screens, user interfaces, system designs and documentation, marketing and commercial strategies, information concerning Purchaser's or any of its affiliates' employees, customers, or suppliers, processes, data concepts, and know-how, and unique combinations of separate items which individually may or may not be confidential, which information is not generally known to the public and either derives economic value, actual or potential, from not being generally known or has a character such that Purchaser or any of its affiliates has an interest in maintaining its secrecy. Contractor shall hold in confidence, in the same manner as it holds its own Confidential Information of like kind, all Confidential Information to which it may have access hereunder, and shall not use Confidential Information for any purpose other than performance of the Work. Access to Confidential Information shall be restricted to Contractor's employees with a need to know such information in connection with the Work.

B. The restrictions set forth in this Article shall not apply to Confidential Information which Contractor can establish by documentary evidence: (1) is generally known to or readily ascertainable by the public other than through an act or omission of the Contractor or its employees or agents; or (2) was already known to Contractor prior to the time it was disclosed to Contractor by Purchaser; or (3) was disclosed to Contractor by a source other than Purchaser without breach of this or any other agreement by the person disclosing to Contractor and without breach of this Agreement or any other duty of Contractor.

C. Contractor shall incorporate the above provisions in all agreements with its Subcontractors, agents and assigns.

ARTICLE XXII - SEVERABILITY

If any portion of this Agreement is held invalid, the Parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement, and the Parties further agree to substitute for the invalid portion a valid provision that most closely approximates the economic effect and intent of the invalid provision.

ARTICLE XXIII - FORCE MAJEURE

Neither party shall be liable to the other for any expenses, loss or damages resulting from delays or prevention of performance arising from causes beyond its reasonable control caused by fire, flood, accident, strikes, civil commotion, governmental or military authority, insurrection, riots, embargoes or acts of God or public enemy. In the event of any delay arising by reason of any of the foregoing events, the time for performance shall be extended by a period of time equal to the time lost by reason for such delay.

The Contractor will notify the Purchaser as soon as reasonably practical and in writing within forty-eight (48) hours of the Contractor's becoming aware of a force majeure occurrence as defined herein which will or has caused a delay. Within seven (7) working days of such occurrence, the Contractor will further define the precise cause or causes of the delay, the measures taken or to be taken to minimize the delay, the time table by which the measures will be implemented, the duration of the delay, the extension of time for performance of the Agreement the Contractor is claiming and documented evidence that support the claim. The Purchaser will review the Contractor's claim and advise the Contractor in writing of Purchaser's decision regarding the Contractor's claim for extension of time for performance of the Agreement.

ARTICLE XXIV - SALES TAX

Taxes, if any, shall be shown separately on any bids or invoices sent to Purchaser. Direct Payment Permit Numbers authorizing purchase of tangible personal property without payment of the tax at the time of purchase, have been issued to Purchaser. The Permit Numbers are 98001123 for Ohio Edison Co., 128 for Pennsylvania Power Co., 98002722 for FirstEnergy Nuclear Operating Co., 98000312 for The Cleveland Electric Illuminating Co., 98001495 for The Toledo Edison Co., DP-210-485-010 for Jersey Central Power and Light Co., 127 for Pennsylvania Electric Company Co., 135 for Metropolitan Edison Co. and 98-002723 for FirstEnergy Generation Corp. In Michigan, a Michigan Sales and Use Tax Certificate of Exemption shall be made available upon request. Purchaser agrees to maintain adequate records of all purchases and pay tax on the taxable items directly to the Treasurer of each respective State. In Ohio, Direct Payment Permits do not apply to construction contracts under which the contractor is considered to be the consumer and liable for the tax on materials incorporated into a structure or improvement as provided in Section 5739.01 (B) Ohio Revised Code. Pennsylvania Direct Payment Permits do not apply to construction contracts under which a contractor is considered to be the consumer and liable for the tax on materials incorporated into the property of Pennsylvania companies. Pennsylvania Sales and Use Tax Regulations Sections 31.11 through 31.16 provide for tax-exempt purchase of materials by a contractor for those materials that will be incorporated into and become a part of the property of Pennsylvania companies. In order to qualify, the property must be directly used in the rendition of the Public Utility Service. Contract bids should be submitted accordingly. The successful bidder will be issued a properly executed "Certification" form upon request to permit tax-exempt purchase of qualifying materials.

Questions concerning Pennsylvania or New Jersey sales taxes should be directed to the FirstEnergy Service Company, at (973) 401-8323. Questions about Ohio sales taxes (and states other than Pennsylvania or New Jersey), should be directed to the FirstEnergy Service Company, at (330) 384-5334.

ARTICLE XXV - GOVERNING LAW

Unless otherwise stated on the face of the Purchase Order, this Agreement is to be governed by and interpreted in accordance with the law of the State of Ohio. The parties expressly exclude the applicability of the United Nations Convention on Contracts for the International Sale of Goods, if the same would otherwise apply here. Any legal suit, action, or proceeding to collect payment due hereunder from Purchaser, or otherwise arising out of or relating to this Agreement, may be (and, if against Purchaser, must exclusively be) instituted in a State or Federal Court in the County of Summit, State of Ohio, and Contractor waives any objection which it may have now or hereafter to the laying of the venue of any such suit, action or proceeding and hereby irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding.

ARTICLE XXVI - INTERPRETATION

The following principles of interpretation shall apply to this Agreement: (i) paragraph headings and captions are inserted for convenience only and shall not be considered in construing intent; (ii) neither Purchaser nor Contractor shall be considered to be the party responsible for the drafting of any particular provision of this Agreement; (iii) the words "hereof," "herein," "hereunder," and words of similar import shall refer to this Agreement as a whole and not to any particular provision hereof; (iv) the word "including" means "including, but not limited to" and shall be interpreted as broadly as possible; (v) words in the singular include the plural and vice versa, (vi) All references to "days" shall be calendar days (and not merely business days, unless the Agreement so states), and (vii) any provision hereof that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or

enforceability of such provision in any other jurisdiction and the provision that is prohibited or unenforceable shall be reformed or modified to reflect the parties' intent to the maximum extent permitted by applicable legal requirements.

ARTICLE XXVII - EXECUTION AND COUNTERPARTS

This Agreement may be executed in multiple counterparts, which taken together shall constitute an original without the necessity of all parties signing the same page or the same documents, and may be executed by signatures to electronically or telephonically transmitted counterparts in lieu of original printed or photocopied documents. Signatures transmitted by facsimile shall be considered original signatures.

LABOR REV.23 04-21-08

Contractor Safety Guidelines

CONTRACTOR RESPONSIBILITIES

Contractors are responsible for their own safety. Each Contractor must have their own written safety program and must follow it while performing work for FirstEnergy. Each contractor must follow all of the requirements of this Contractor Safety Guide. This Contractor Safety Guideline takes precedence over the Contractors written safety program in any area where there may be a conflict unless negotiated differently. Any conflicts between this guideline and the contractor's own written program must be brought to the attentions of FirstEnergy.

The Contractor will at all times be solely responsible for all means, methods, techniques, and procedures for the work specified in the contract. The Contractor is responsible for all acts and omissions, of all their employees, subcontractors and agents, performing any of the contracted work. The Contractor will at all times maintain appropriate discipline among its employees, and will not employ any person unfit or unqualified in that portion of the contracted work assigned to them.

The Contractor has the authority and responsibility to control, and/or correct all safety and health hazards associated with the contracted work. If the Contractor becomes aware of a hazard which the Contractor contends was created or caused by FirstEnergy regional operations, the Contractor must notify the designated FirstEnergy contact person immediately in the case of an imminent hazard, or as soon as possible in all other cases.

SAFETY AND HEALTH OBLIGATIONS

1. Designation of Safety Supervisor

The Contractor must designate a responsible member of its organization at the job site, whose duty would include safety and health compliance, and the prevention of accidents. The name and position of any person designated must be reported in writing to the appropriate FirstEnergy regional operations safety representative or other designated FirstEnergy representative.

2. General Site Rules and Housekeeping

A Portable ladders are to be tied or lashed to prevent the ladder from slipping and must have non-slip bases. Metal and any conductive ladders will not be permitted for use around energized conductors or equipment.

B Hoses and electrical cords must be barricaded and protected or run overhead to eliminate tripping hazards or damage by heavy equipment

C Temporary floor openings are to be barricaded and flagged as required by OSHA regulations

D Compressed air must not be used for cleaning clothing or shoes

E All equipment used in proximity to overhead lines must be properly grounded. Work near overhead lines must be communicated to the appropriate FirstEnergy regional operations safety representative's attention.

F Rigging and hoisting of material or equipment must be done in a manner to ensure safety to personnel and existing equipment in the hoisting area.

G All posted signs must be observed.

H Fire extinguisher, fire hoses, and other fire fighting equipment must not be moved from their designated locations, except in the event of a fire.

I The contractor must also be aware of various hazards existing around high voltage switches, cables, and overhead lines, and take appropriate steps to protect their employees.

3. Personal Protective Equipment

The Contractor must ensure that all its employees utilize all personal protective equipment required by applicable Occupational Safety and Health Administration (OSHA) laws and regulations. FirstEnergy regional operations will not provide safety equipment or PPE for the Contractor's work activities.

Hard hats, safety glasses, and hearing protection where appropriate must be worn at all times. Proper sturdy footwear with safety toes must be worn at all times.

OSHA compliance will include, but not be limited to, the following:

A. Conducting a hazard assessment prior to job initiation, to determine what if any personal protective equipment is needed for their employees.

B. Conducting industrial hygiene sampling if required by OSHA regulations.

(1) If industrial hygiene sampling is required, the Contractor will inform the FirstEnergy regional operations safety representative, in

writing, of the personnel to be monitored and the individual or subcontractor that will be performing the sample collection and/or analysis.

(2) FirstEnergy reserves the right to reject any/or all parties involved with the sample collection and/or analysis.

(3) The Contractor will supply FirstEnergy with the results of all personal monitoring samples collected on FirstEnergy property.

Unless the worker is a qualified worker with proper PPE, Contractors must observe OSHA's minimum safe work distance of 10 feet at all times. If you are a qualified worker with the proper PPE the minimum safe work distance is as follows below.

Alternating Current Voltage Range (Phase to Phase) Kilovolts	Minimum Working and Clear Hot Stick Distance (Phase to Ground Exposure)
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1.1 to 15	2'-1"
15.1 to 36	2'-4"
36.1 to 46	2'-7"
46.1 to 72.5	3'-0"
72.6 to 121	3'-2"
138 to 145	3'-7"
161 to 169	4'-0"
230 to 242	5'-3"
345 to 362	8'-6"
500 to 552	11'-3"
700 to 765	14'-11"

4. Emergencies

The Contractor must be aware of and comply with any emergency action plans for the facility where contracted work is performed.

In an emergency potentially threatening the safety of an employee's life, the safety of the job site, or of adjoining property, the Contractor is permitted to act at its discretion to prevent property loss or personnel injury. Reimbursement for any costs incurred by the Contractor because of emergency work will be made at the discretion of FirstEnergy.

5. First Aid

The Contractor must provide its own first aid supplies, emergency response equipment, and prompt medical attention in case of serious injury. Provisions must be made and in place prior to the commencement of the work. The Contractor is responsible for ensuring that employees trained in first aid are available on each shift.

6. FirstEnergy Regional Operations Equipment and Utilities

The Contractor is prohibited from starting, stopping, or otherwise operating FirstEnergy regional operation's owned or leased equipment and utilities, unless specifically authorized to do so in writing. The Contractor cannot open or close any valves, breakers, or switches, enter into any equipment, or cut into any conduit or conductors, without first obtaining permission from the proper FirstEnergy contact. (See section on deenergized lines and equipment for worker protection)

7. Deenergized Lines and Equipment for Worker Protection

Electric Power Generation Transmission and Distribution (29 CFR 190.269) Work

The Contractor will be required to use FirstEnergy regional operations' program for deenergized lines and equipment for worker protection (Manual of Operations), for work that affects the operation and maintenance of electric power control, transformation, transmission, or distribution lines and equipment. The contractor will obtain a clearance control through the designated FirstEnergy Representative, prior to the commencement of the contracted work.

Any piece of equipment that is tagged out or tagged and locked out of service must never be placed in service until it has been released for service by the person(s)-in-charge. The designated FirstEnergy representative will obtain a clearance release for the Contractor.

Premise Wire Work at Service Centers

When performing maintenance work at a FirstEnergy service center that does not fall under the Electric Power Generation Transmission and Distribution Standard (29 CFR 190.269), the contractor can use their own Facility Energy Control program (lockout/tagout) to perform work. FirstEnergy reserves the right to have the contractor use FirstEnergy's Facility Energy Control program whenever FirstEnergy deems it necessary. In situations where two or more contractors are performing premise wire electrical work at the same time on the same facility, FirstEnergy will indicate which Facility Energy Control program will be used by all parties involved.

8. Excavation and Trenching

Any excavation and trenching activities and building demolition operations must comply with applicable state or federal standards pertaining to those activities. This includes trenches dug for access to utility piping plumbing and power lines. The Contractor will

obtain all appropriate permits prior to beginning work on-site. The Contractor will agree to comply with OSHA regulations that include but are not limited to

- " Using shoring or sloping for evacuations five (5) feet or deeper;
- " Having shoring inspected by trained "competent" person;
- " Hazardous atmospheric testing where needed; and
- " Providing appropriate means of egress.

9. Scaffolding

Any scaffolding must be erected and maintained in accordance with applicable state or federal standards pertaining to those activities. The Contractor will be responsible to ensure that all employees working on scaffolding are properly trained to qualify them as either a competent person, erector/dismantler, or user. Scaffolding will be inspected by a "competent person." All scaffolding will utilize a guardrail system and toeboards. Fall protection must be utilized where required by OSHA regulations. All scaffolding that is constructed will meet the design and construction requirements of 29 CFR 1926 subpart L. The Contractor will supply an informational copy of all scaffold inspection documents to the designated FirstEnergy Representative.

10. Asbestos

Unless told otherwise, contractors must assume that all insulating materials including thermal system insulation, surfacing materials, and other building materials such as floor tile, gaskets, old wire insulation, and transite board must be considered to contain asbestos.

The Contractor will be notified of the presence of any known or suspected asbestos-containing materials in the Contractor's proposed work areas. Only a Contractor with the required OSHA training, certification and permits for asbestos abatement and removal may handle these materials. All other Contractors are prohibited from working on or removing asbestos-containing materials.

11. Lead

Before any Contractor can perform work on materials that have the potential to contain lead, the material must be tested prior to performing any work that could create dust or fumes. If possible, all lead should be removed prior to the start of work. If the work to be performed will cause lead particles or fumes to become airborne, then proper containment and control, techniques and equipment, must be in place. The Contractor is responsible for ensuring that only properly trained employees will perform such work and that all workers will have on the proper personnel protective equipment. Air monitoring must be conducted for work activities that create dusts or fumes with lead. (See section 3)

12. Hexavalent Chromium

If the Contractor will be performing welding operations or any activity that will create a hexavalent Chromium hazard, the Contractor is expected to notify the FirstEnergy regional operations safety representative and take all appropriate steps to comply with OSHA's general industry and construction Hexavalent Chromium Regulations. If the work being performed by the Contractor falls under OSHA's general industry definition, and the amount of hexavalent chromium produced will exceed the permissible exposure limit, then the Contractor is responsible for setting up and maintaining a regulated area as outlined in 1910.1026. The Contractor is responsible for ensuring that only employees with the required OSHA training enter and perform work in this area. Contractors working in regulated work areas will be responsible for providing and maintaining step off exit areas from these regulated areas.

Disposal of all protective coveralls, personal protective equipment, or any other items that become contaminated from hexavalent chromium, is the responsibility of the Contractor and must be properly disposed of in accordance with applicable federal, state, and local regulations. The Contractor is responsible for ensuring that their employees are properly trained to work around and with hexavalent chromium sources. If the Contractor is working at a Energy Delivery facility, use of the facility's change area and shower is prohibited, unless a specific agreement to do so is in place.

Portland Cement Applications

Contractors performing work using Portland cement must follow OSHA's compliance directive for the Chromium (VI) standard (appendix C-1). The Contractor must ensure that items identified in the appendix are followed such as:

- " Proper PPE is used such as boots, gloves, protective coveralls, respirator (if needed), (refer to section 3 on PPE), keeping all PPE reliable and sanitary at all times.
- " Washing facilities are close by.
- " The 8-hour TWA exposure to Portland cement dust or any other dust created at the job site, does not exceed the PEL of 15 mg/m³ for total dust without workers being in respiratory protection. (refer to section 3B on PPE)
- " MSDSs and labels for Portland cement are maintained and made available. (refer to section 22 on Hazardous Materials)
- " Employees used by the Contractor are properly trained to the hazards associated with exposure to Portland cement, the use of PPE, and proper hygiene practices. (refer to section 16 on Employee Training and Qualifications)

13. Hot Work (Welding, Cutting, Grinding, Brazing)

The Contractor is prohibited from welding, burning, cutting, brazing or performing other "hot work" without prior authorization from FirstEnergy regional operations management or designated representative. All hot work must comply with state and federal standards for these work activities, including those standards pertaining to hot work permits and safe handling of compressed gases.

1. Due to the increased risk of fire resulting from the performance of Hot Work operations, all Contractors are responsible for the implementation of a Hot Work permit procedure. This Hot Work permit procedure must identify the necessary precautions taken to prevent fires resulting from open flame operations (i.e. Welding Cutting, grinding, brazing).

2. The Contractor will ensure that there are sufficient numbers of fire extinguishers, of the proper type, in the work area.
3. The Contractor must focus on the fire hazards associated with their work. It may be necessary to post a "fire watch", depending on the nature and location of work.
4. The Contractor will provide protection to prevent welding and burning sparks from falling below the work level. Fire retardant material must be used for this purpose.
5. The Contractor will screen or shield welding activities to prevent welding flash injuries to other personnel.
6. Storage area for oxygen and acetylene tanks must be separated by 20 feet or by a non-combustible barrier at least 5 feet in height. Cylinder must be secured at all times and capped when not in use.
7. Empty cylinders must be removed from the work area to the designated storage area.

14. Powered Industrial Trucks and Other Vehicles

The Contractor's employees who drive vehicles or forklifts, or who operate heavy equipment on FirstEnergy regional operations project sites, must have a current driver's license. The Contractor must retain documentation of appropriate training in accordance with state and federal OSHA standards, Department of Transportation, and Department of Motor Vehicles codes and standards. The Contractor is responsible to meet all OSHA regulation pertaining to powered industrial trucks, mechanized equipment, motor vehicles, cranes derricks and hoists which includes but is not limited to 1926 subparts N and O.

15. Written Safe Work Procedures

The Contractor must have in writing safe work practices, procedures, and programs pertinent to the work being done. FirstEnergy regional operations designated representative is to be provided a copy of these written safe work practices, procedures, and programs prior to working on or at FirstEnergy facilities. If upon review, FirstEnergy regional operations designated representative deems it not to be in compliance with appropriate OSHA regulations, the parties involved must resolve issues prior to the commencement of work.

16. Employee Training and Qualifications

Contractor will provide only properly trained and qualified personnel to perform work under the Contractor Agreement. The Contractor has the authority and responsibility to train the Contractor's employees with regard to general and work-specific hazards and safe practices. The Contractor must certify that all of its employees, subcontractors and vendors, have been fully informed of tasks and specific hazards and safety requirements before beginning work on-site.

17. Incident Reporting

The Contractor will immediately notify FirstEnergy regional operations management or designated representative of any occupational injury or illness, employee exposure to hazardous substances, vehicle accidents, property damage, fires, environmental spills or releases, or "near misses". The Contractor will provide a written incident report to the FirstEnergy regional operations management or designated representative within 24 hours of any such occurrence. FirstEnergy regional operations reserves the right to review the Contractor's incident investigations and/or perform FirstEnergy regional operations own investigations, for the sole purpose of verifying facts, protecting FirstEnergy regional operations personnel and property, and limiting FirstEnergy regional operations liability.

18. Fall Protection

The contractor is responsible for providing suitable fall protection to any of its employees on a walking or working surface that is 6 feet or more above a lower level or 4 feet or more for work on poles, towers and similar structures. Fall protection must be used when working 4 feet or more above a lower level on top of transformers, or any conductor supporting structures. Fall protection must be worn when performing work in aerial devices. All contract employees must be trained in fall protection before using fall protection equipment. The contractor is responsible for determining suitable anchor points for fall protection devices.

19. Substations

All contractors assigned to work in substations must be "qualified" employees. Qualified employees are those employees that have been trained in the hazards associated with the construction and operation of electric power generation, transmission, or distribution equipment. (See 29 CFR 1910.269). Substation equipment, busses and lines are to be considered energized until properly de-energized, grounded, and tagged out. All substation gates must be closed and locked if the contractor cannot maintain visual contact with the gate. OSHA minimum working distances must be maintained by the Contractor at all times unless qualified and wearing the proper PPE to get closer than the required minimum approach distances.

20. Confined Spaces and Enclosed Spaces

Confined Spaces

The Contractor must have in place a permit required confined space program for the protection of its employees from the hazards associated with the entry into confined spaces. Contractors are required to perform the following activities:

- " Obtain any available information regarding confined space hazards and entry operations from the host employer, (FirstEnergy regional operations, or designated representative).
- " Coordinate entry operations with the host employer, when both host employer personnel and Contractor personnel will be working in or near confined spaces.
- " Inform the host employer of the confined space program that the Contractor will follow and of any hazards confronted or created in permit spaces, either through a debriefing or during the entry operation.

FirstEnergy reserves the right to require the Contractor to follow FirstEnergy's Confined Space Program. If FirstEnergy decides to require the Contractor to follow FirstEnergy's Confined Space Program, a copy of FirstEnergy regional operation's confined space program will be given to the Contractor. An agreement to train contractor employees to FirstEnergy regional operations' confined space program must be in place, with training completed, prior to the commencement of work.

Enclosed Spaces

For entries into spaces that meet the definition of "enclosed spaces", the contractor must have in place an enclosed space entry procedure. The contractor will be responsible to determine if conditions allow for the entry of a confined space as an enclosed space as specified in 29 CFR 1910.269, or if conditions require the confine space to be upgraded to a permit required confined space. Atmospheric testing prior to entry and continued monitoring will be the responsibility of the contractor. The contractor must supply their own equipment for the testing of air prior to entry.

21. Permits, Licenses and Inspections

The Contractor will secure and pay for all required licenses, permits and inspections necessary for performance and completion of the work. Within 5 working days of receiving such documents, the Contractor will deliver to FirstEnergy regional operations or designated representative copies of all permits, written approvals, licenses and inspections.

22. General Rules for Hazardous Materials and Equipment

When the use of hazardous materials as defined by 29CFR 1910.1200 or equipment is necessary for the work being performed, the Contractor must exercise the highest care and must perform such activities under the supervision of properly qualified personnel. All applicable laws, rules, regulations and ordinances must be followed. The Contractor is responsible to comply with the OSHA Hazard Communication Standard. A copy of all Material Data Safety Sheets (hereinafter referred to as "MSDS") must be given to the FirstEnergy regional operations site representative or designated representative, that is in charge of the site's hazard communication program, when a hazardous material is brought on site. It is the Contractors responsibility to also maintain a MSDS file of all hazardous substances and chemicals. Where and when a hazardous material will be used must be communicated to the FirstEnergy regional operations site representative or designated representative, prior to commencing work.

For work performed at Pennsylvania locations the Contractor will comply with all requirements of the Pennsylvania Right To Know Act, including but not limited to, the labeling of containers, proper handling of applicable materials, proper training and protection of employees and others, and the securing and implementing of MSDSs.

The Contractor will be responsible for removing and properly disposing of all empty, partially full, or full containers of chemicals or chemical substances as part of its demobilization. All products and materials brought on site by a Contractor must be removed by that Contractor upon its departure. Do not put chemical containers into company trash containers. Failure to adhere to this provision will result in FirstEnergy disposing of the same and recovering the costs from the contractor. Also, all appropriate regulatory agencies will be notified of any non-compliance with any applicable regulations.

Explosives of any description are not permitted to be stored on the Project Site. If the Contractor wishes to use explosives of any description, the Contractor must first provide written notice to the FirstEnergy regional operations representative and obtain the approval of all appropriate authorities having jurisdiction over the use of such explosives.

23. Fire Extinguishers and Fire Watch

The Contractor will work with the FirstEnergy safety representative to ensure that there are sufficient numbers of fire extinguishers, of the proper type, in the work area. The Contractor will be responsible for providing a fire watch for periods during which its personnel may be engaged in activities constituting a fire hazard, or as otherwise required by law. Prior to engaging in any activities that could ignite a fire, the Contractor must ensure that all flammable material has been cleared from the affected area. See section on hot work.

24. Compliance Audits

Any contractor performing work at a FirstEnergy facility may be subject to compliance audits, which includes Safety as well as all other compliance documentation mentioned in this document, whether announced or unannounced, at FirstEnergy's discretion.

SECURITY AND FACILITY ACCESS

The Contractor will comply with FirstEnergy regional operations security and access procedures for entry onto a FirstEnergy regional operations controlled property, worksite, or facility. The Contractor's employees are authorized to enter only those work areas and structures specific to its contractual scope of the contracted work. Site specific security requirements will be distributed and reviewed with the contractor prior to mobilization.

A visitor is defined as any person not covered by contractual agreements with FirstEnergy regional operations. Visitors may include vendors, tour groups or guests of the Contractor's management. All visitors to FirstEnergy regional operations project sites or facilities must have prior authorization from FirstEnergy. Visitors are prohibited from areas where contact with hazardous substances or materials is possible and are also prohibited from entering any area of the work site that requires PPE, respirators, or specialized medical monitoring or safety training.

The Contractor will immediately notify FirstEnergy regional operations management or designated representative of any regulatory

agency inspectors or compliance personnel who request information about on-site activities or who request entry to work site. This includes personnel from city, county, state or federal government agencies. Regulatory and government personnel must provide appropriate identification prior to entering the work site.

Prohibited Acts

The Contractor's employees and Subcontractors are prohibited from bringing firearms, knives, and weapons of any kind into a FirstEnergy regional operations site, unless specifically authorized to do so in written contractual documents.

No one under the influence of any narcotics, drugs, controlled substances or alcoholic beverages is permitted on FirstEnergy property, or permitted to work on FirstEnergy equipment.

The illegal use, sale, or possession of narcotics, drugs, controlled substances or alcoholic beverages while on the job is strictly prohibited.

Contractor's employees and Subcontractors are permitted to smoking in designated areas only.

Revised 05/07

Supplier or Contractor to execute both copies and return a copy to the appropriate address below:

FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308-1890
Mail Stop A-GO-09

Supplier or Contractor to retain a copy for Supplier's/Contractor's records.

Supplier or Contractor acknowledges receipt of and agreement to this writing and the terms contained herein and in the attached terms and conditions.

Name: _____ Date: _____
(Authorized Supplier/Contractor Signature)

(Print) Name _____ Title: _____

Name: _____ Date: _____
(Authorized Purchasing Representative Signature)

(Print) Name _____ Title: _____

Type Community Name Here
 Address Here

In Account With: _____ Date _____

 Host Community Name

 Host Community Address

 Host Community Address

Attn: Superintendent - Re: Mutual Aid

Dates Mutual Aid Provided _____

<u>CHARGE</u>					
<u>Labor & Vehicle Charge</u>					
<u>Employee</u>	<u>Hours</u>		<u>Rate</u>		<u>Total</u>
John Doe	29.4 hrs.	@	\$ 21.28	\$	625.63
Jane Doe	31.2 hrs.	@	\$ 15.01	\$	468.31
Jeff Doe	30.6 hrs.	@	\$ 16.87	\$	516.22
Actual Amount paid to employees rendering aid				\$	1,610.17
Factor x 2 (Article 4.1 of the Agreement)					X2
Amount of Charge for Labor & Equipment					\$ 3,220.33
<u>Materials, Supplies & Expenses Charge</u>					
<u>Description</u>	<u>Quantity</u>		<u>Unit Price</u>		<u>Total</u>
Crossarms	10 ea	@	\$ 26.00	\$	260.00
Gasoline	20 ea	@	\$ 2.25	\$	45.00
Meals	4 ea	@	\$ 10.00	\$	40.00
Room	1 ea	@	\$ 125.00	\$	125.00
Subtotal				\$	470.00
Amount of Charge for Material, Supplies & Expenses					\$ 470.00
<u>Total Amount to be billed</u>					\$ 3,690.33
Note: Vehicle time & fringe benefits are not to be charged These costs are included in the times 2 multiplier					