

PURCHASE ORDER TERMS AND CONDITIONS FOR SERVICES

These **Terms and Conditions** shall govern all services covered by the **Vermont Transco LLC** (“VT TRANSCO”) **Purchase Order** (“PO”) through its manager Vermont Electric Power Company (“VELCO”), collectively herein VT TRANSCO or VELCO, and shall be deemed to be in effect as of the date of the PO. Unless otherwise agreed to in writing by both VT TRANSCO and Contractor, these Terms and Conditions supercede and take precedence over any other terms and conditions contained in any quote, bid, or invoice pertaining to the work, services, goods, and materials.

1. Scope of Work

Contractor shall provide to VT TRANSCO the services (hereinafter, the “Work”) as described on the PO.

2. Compensation

As compensation for the performance of the Work, VT TRANSCO shall pay to Contractor the amount specified on the PO (hereinafter sometimes referred to as the “Price”).

3. Performance

Contractor shall commence the Work upon receipt of a PO from VT TRANSCO and shall complete any various stages of work provided in the description of the PO. Time is and shall continue to be of the essence in performance of the Work.

4. Technical Materials

All design, blueprints, tools, dies, patterns, plates or other technical materials furnished to Contractor, or paid for by VT TRANSCO under the PO shall remain VT TRANSCO’s sole and exclusive property. VT TRANSCO reserves and retains all rights thereto. Any such materials provided to Contractor shall be deemed Confidential Information. Unless otherwise directed by VT TRANSCO, Contractor shall return the same to VT TRANSCO in good condition upon completion, termination or cancellation of the PO or on demand by VT TRANSCO. Contractor shall not copy or otherwise use any such materials for any purpose other than performance under the PO. Contractor grants to VT TRANSCO the right to reproduce, use and disclose in connection with the use, maintenance and service of the Work, all reports, drawings and reproductions thereof, and all data and technical information delivered to VT TRANSCO.

5. Independent Contractor

For all Work to be performed under the PO, Contractor shall be an independent contractor and not the agent or employee of VT TRANSCO. Contractor shall have no authority to make any statement or commitment, nor to take any action, which may be binding on VT TRANSCO, except as may be expressly provided for herein, or as expressly authorized in writing by VT TRANSCO. Contractor shall have no recourse against any of VT TRANSCO’s affiliates, members, partners, joint venturers, shareholders, officers, directors, or employees for any reason, other than as set forth in the Agreement.

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6. Change of Work

VT TRANSCO may, at any time, and from time to time, make changes in the Work through additions, deletions or other revisions, provided that such changes do not materially change the nature of the PO, and provided that, in the case of any change in the Work, and equitable change to the Price shall be made. Contractor shall have the right at any time to request such changes using a Change Order form agreed to by VT TRANSCO. VT TRANSCO may accept or reject such changes in its sole discretion. All changes shall be made pursuant to a Change Order and agreed to by both parties.

7. Audit and Inspection

VT TRANSCO reserves the right and Contractor shall allow VT TRANSCO to audit, or cause to have audited, Contractor's property, books and records related to the PO to assure Contractor's compliance therewith. When requested by VT TRANSCO, Contractor shall provide VT TRANSCO with reasonable access to its property, books and records necessary to effectuate VT TRANSCO's audit rights hereunder. VT TRANSCO shall have the right, at all reasonable times, to inspect, review and observe Contractor's performance of the Work.

8. Payment

Payments pursuant to the PO, subject to retention or setoff, if applicable, will be made within 30 days after receipt of Contractor invoices with appropriate supporting documentation or 30 days after acceptance of the Work (or portions thereof if applicable), whichever is later.

9. Warranty

Contractor shall warranty all Work for a period of three years unless otherwise agreed to by both VT TRANSCO and Contractor.

- **Personnel Warranty**

Contractor warrants that it will provide highly qualified supervision and sufficient competent personnel to perform the Work.

- **Quality of the Work**

Contractor warrants that the Work shall conform with the standards of care and practice appropriate to the nature of the Work, and that the Work shall be free from material defects, errors and omissions, and in conformity with the PO.

- **Compliance with Law**

Contractor warrants that its performance of the Work shall comply with, all applicable laws, statutes, ordinances, rules, regulations and orders, including, but not limited to, those relating to safety, employment, equal employment opportunity, the environment, taxes and withholding and labor, and with all of the terms, conditions and limitations contained in any certificate, permit or license applicable to the Work.

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This warranty shall extend to the Contractor's agents, employees and subcontractors. Contractor further warrants that before starting on any part of the Work, it and its employees and subcontractors (i) shall be licensed in accordance with all applicable laws; (ii) shall procure all necessary permits and licenses (unless secured by VT TRANSCO at its sole discretion); (iii) shall pay all charges and fees; and (iv) shall give all notices necessary or incidental to the due and lawful prosecution of the Work.

- **Breach of Warranty**

If any of the Work is defective or otherwise breaches the warranties made in these Terms and Conditions, VT TRANSCO may require correction or re-performance of same to VT TRANSCO's satisfaction without further cost to VT TRANSCO. If such required correction or re-performance is not properly or timely performed, VT TRANSCO may terminate the PO and have the Work performed by a third party.

- **Payment or Acceptance**

Neither final payment nor acceptance shall relieve the Contractor of responsibility for failure to meet the warranties made in these Terms and Conditions.

10. Termination

- a. **Termination for Default**

Upon default (a "Default") by Contractor with respect to any material term of the PO, including, but not limited to, breach of a warranty, VT TRANSCO may give written notice to Contractor and without prejudice to any other right or remedy available to VT TRANSCO, terminate the PO for Default. Without limiting any other rights VT TRANSCO may have in law or equity, upon such termination, Contractor shall be liable to VT TRANSCO for any extra costs incurred to obtain substitute performance and for any costs reasonably incurred by VT TRANSCO to obtain re-performance of any portion of the Work made necessary or expedient by the Default. For the purposes of this Section 9 a. the following shall also be deemed to be a Default by Contractor:

- i. Failure to comply with the VELCO Safety Manual or OSHA or other state or federal safety requirements;
- ii. Failure to comply with Applicable Permits and the policies and procedures included in the VELCO Environmental Guidance Manual or state or federal environmental requirements;
- iii. Staffing Work with personnel that have not completed the Training identified in Section 13.a;
- iv. The conduct of work behaviors or practices that present a clear and present danger to other workers, VT TRANSCO employees or agents, or the public.

- b. **Termination for Convenience.**

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VT TRANSCO may, by written or telephone or electronic notice, terminate performance under the PO in whole, or from time to time in part, for any reason, including its convenience. Upon termination in whole, the obligations under the PO shall be terminated except as to the Paragraphs herein headed “Warranty”, “Indemnification and Insurance”, “Technical Materials”, and “Confidential Information”. In such event, Contractor shall waive any claims for damages, including loss of anticipated profits on account thereof, but as the sole right and remedy of the Contractor, the Purchaser shall make payment to the Contractor for all cost incurred prior to such termination reasonably allocable to the PO under recognized accounting practice, plus a reasonable allowance for direct overhead for Work completed, less disposal or retention value of termination inventory and any amounts previously paid by VT TRANSCO. No payment for indirect overhead or profit will be made. This right of termination shall be in addition to any other remedies VT TRANSCO may have.

11. Indemnification

Contractor shall, at its sole expense, defend (at VT TRANSCO’s option), indemnify and hold harmless VT TRANSCO, its directors, officers, agents and employees (collectively, the “Indemnitee”), from and against all claims, causes of action, suits, losses and damages (including attorneys’ fees) (the “Liabilities”), and from threatened loss or expense by reason of Liabilities, arising in whole or in part, from or out of the Work; except to the extent that the Liabilities arise from the negligence or wrongful act or omission of Indemnitee, its officers, agents, employees, or subcontractors.

12. Insurance

The Contractor shall purchase and maintain insurance to protect Contractor and VT TRANSCO, and shall at a minimum obtain and maintain throughout the term of the PO and for a period of three years post final acceptance of the Work, the following minimum insurance coverage:

- Workers’ Compensation/Employers’ Liability
Statutory requirements for the State of Vermont, the location where performance occurs or both, if obligations arise in both.
- Comprehensive Automobile Liability
Combined Single Limit for Bodily Injury and Property Damage for owned, non-owned and hired automobiles of not less than \$500,000.
- Comprehensive General Liability
Combined Single Limit for Bodily Injury, Property Damage, Personal Injury/Advertising Injury, to include Blanket Contractual coverage, of not less than \$1,000,000 per occurrence.
- Umbrella Liability

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Combined Single Limit - Excess of Primary Limits - \$1,000,000. These limits apply to all of the above-mentioned policies.

- **Professional Liability**

For Engineers/Architects, Professional Liability Insurance with a Combined Single Limit of \$1,000,000 is also required.

Contractor shall secure endorsements to its Comprehensive General, Auto and Excess/Umbrella Liability Policies that name VT TRANSCO, VELCO and VETCO their directors, officers, employees, agents and representatives as additional insured for the purposes of the PO. VT TRANSCO, VELCO and VETCO must be named as additional insured on a primary and non-contributory basis using Additional Insured Endorsements and any insurance maintained by the additional insured shall be deemed to be excess and non-contributory. Upon VT TRANSCO's request, Contractor shall provide proof of endorsements. Contractor shall also obtain certificates and/or endorsements which shall provide that no insurance policy required hereunder shall be canceled or allowed to expire or the limits in any manner reduced until at least 30 days prior written notice has been given to VT TRANSCO. To the fullest extent allowable under all policies and under law, Contractor and its insurers hereby waive all rights of subrogation against VT TRANSCO and its directors, officers, employees, agents and representatives. Upon VT TRANSCO's request, Contractor shall also furnish to VT TRANSCO certificates of insurance as evidence of required coverage and waiver of subrogation endorsements.

13. Safety and Environmental

If Contractor will be providing services on or at any VT Transco property or facility, Contractor shall abide by their then current safety program and all applicable safety laws and rules.

If Contractor will be providing services on or at any VT Transco property or facility, except for deliveries and office visits with VT Transco employees, Contractor shall abide by the then current requirements of VT Transco's environmental program, as set forth in VT Transco's managers environmental manual found at www.velco.com/contact/contractors-and-vendors.

Please contact the Safety Manager by e-mail at Safety@velco.com or Environmental Manager at Environmental@velco.com to discuss any safety and/or environmental questions or requirements.

14. Drug Free Workplace Act of 1988

VT TRANSCO requires all Contractors to comply with the requirements of the Drug Free Workplace Act of 1988. Contractor employees and subcontractors are expected to report to work in an appropriate mental and physical condition for work. Use of controlled substances during work under this contract or while on VT TRANSCO Property is strictly prohibited and grounds for termination for cause.

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15. Safety Equipment and Personal Protective Equipment (“PPE”)

The Contractor is required to provide all appropriate safety equipment, including PPE and Fire Resistant (“FR”) Clothing as required by the Work. The selection of the appropriate safety equipment and PPE is the sole responsibility of the Contractor. Contractor shall ensure that equipment and PPE are functioning properly, well maintained, and periodically inspected.

16. Work Stoppage

Any VT TRANSCO employee or representative that observes an unsafe work practice or condition is authorized to request a work stoppage. Unsafe work practices or conditions shall be immediately reported to the Safety Manager. All damages, whether direct or consequential, as a result of safety-related work stoppages, shall be borne by the Contractor.

17. Workplace Auditing

All work performed by the Contractor is subject to unannounced safety and environmental inspections and audits (collectively referred to as audits); any audit will be performed by personnel from the Safety or Environmental Departments. The audits will be comprehensive and will include, but not be limited to 1) documentation (e.g., training records, environmental checklists, tailboard form); 2) adherence to appropriate environmental and safety work practices; 3) proper use of personal protective equipment (PPE); 4) compliance with applicable OSHA/VOSHA standards; 5) compliance with environmental permits; and 6) compliance with environmental and safety guidance documents.

A copy of the audit form is available upon request. Audit results will be documented in a report, which will be provided to the Contractor upon written request. The Contractor is required to score at least 90% on all audits. A score of 89% or less is considered a failing score. A passing score of less than 100% shall cause the Contractor to be responsible to correct any deficiencies noted in the Audit. If a Contractor receives a score less than 100%, the VT TRANSCO may take the following actions:

- i. Provide on-site consultation to correct the improper work practice or violation, but allow work to continue;
- ii. Exercise a work stoppage, during which time remedial actions, including additional training can be executed;
- iii. Require than an individual(s) be removed from the job or re-assigned

18. Applicable Law, Dispute Resolution, and Arbitration

The PO is made under and shall be governed by and construed under the laws of the State of Vermont, without regard to principles of conflicts of laws.

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In the event of any dispute under the PO, the parties agree to first negotiate in good faith to resolve the dispute. If negotiation fails, the parties agree to submit the dispute to mediation at a mutually agreeable location, with a mutually agreeable, impartial mediator. If that fails, except for the right of either party to apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm pending the selection and confirmation of the arbitrator(s), all disputes, controversies, or differences which may arise between the parties, out of, in relation to, or in connection with the PO, or the breach thereof, will be finally settled by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association in effect as of the date the dispute arises. The arbitration will be subject to and governed by the procedures and requirements of the Vermont Arbitration Act except as permissibly modified herein. Unless otherwise agreed, all hearings will be held in Rutland, Vermont. The arbitrator(s) will enforce the express terms of the PO, will follow the applicable law where the PO is silent on a matter in dispute, and will have no authority to award punitive damages or any damages expressly excluded by the terms of the PO. The arbitrator's award may be enforced in any court of competent jurisdiction.

ACKNOWLEDGMENT OF ARBITRATION:

Contractor understands that the PO contains an agreement to arbitrate. After receiving the PO, Contractor understands that it will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, Contractor agrees to submit any such dispute to an impartial arbitrator.

19. Assignment

Contractor shall not assign its rights or subcontract any of its obligations under the PO without the prior written consent of VT TRANSCO. VT TRANSCO's consent to an assignment by Contractor shall not operate to release Contractor from any obligations under the PO.

20. Waiver

In addition to any other provisions in a PO concerning waiver, no waiver of any provision of the PO shall be effective for any purpose unless it is in writing. VT TRANSCO's failure to insist, in one or more instances, upon strict performance of any provision of the PO, or its failure or delay in taking advantage of any of its rights or remedies hereunder, or its failure to notify Contractor of any breach, violation or Default, shall not be construed as a waiver by VT TRANSCO of any such performance, provision, rights, remedies, breach, violation or Default, either then or in the future.

21. Severability

In the event any provision of the PO shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect under applicable law, the validity, legality and

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enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

22. Notices and Correspondence

Non-environmental, health and safety notices to, and correspondence with, VT TRANSCO shall be sent first class, postage prepaid, with copies via e-mail, to:

Vermont Transco LLC
366 Pinnacle Ridge Road
Rutland, VT 05701
Attention: Procurement Department
E-mail: Procurement@velco.com

Notices to, and correspondence with, Contractor shall be sent to the address indicated on the first page of a PO or such other address agreed to by the parties, with copies via facsimile or e-mail to the number/address provided by Contractor. Successors and Assigns

All of the covenants and agreements herein contained on the part of VT TRANSCO and Contractor shall apply and inure to the benefit of, and be binding upon, their respective legal representatives, successors and assigns.

23. Entire PO

The PO, these Terms and Conditions, Change Orders, documents, certificates, agreements, forms and instruments referred to herein or therein, embodies the entire PO between the VT TRANSCO and Contractor.