

## PURCHASE ORDER GENERAL TERMS AND CONDITIONS-02/21/08

The following terms and conditions shall apply to all purchase orders, change orders and blanket orders ("Order").

**1. Definitions.** "Goods" means all goods, including documentation, and services provided by Seller under the Order. "Owner" means Potomac-Appalachian Transmission Highline, LLC and/or its subsidiaries as may be specified in the Order. The rights of Owner herein may be exercised by another service provider authorized to act on behalf of Owner.

**2. Priority.** The Order consists of the following documents, listed in their order of priority in the event of a conflict: any change orders to the Order; the numbered Order; these Terms and Conditions; and any exhibits or schedules incorporated into the Order. Acceptance of the Order is expressly limited to the terms of the Order. Additional or different terms contained in Seller's acceptance shall not become a part of the Order unless expressly agreed to in writing and signed by Owner.

**3. Payment.** Seller shall invoice Owner for the purchase price after delivery of the Goods to Owner. Owner shall pay Seller, upon submission of a proper invoice, the purchase price for Goods delivered and accepted. Owner may withhold all or part of payment if Owner disputes Seller's compliance with the terms of the Order. Owner's payment of this Order is not acceptance of the Goods. The Order number must appear on all invoices, notices and packing materials. Seller's price shall include all taxes, except sales and use taxes. Owner shall provide Seller with Owner's direct pay permit or exemption certificate where applicable.

**4. Shipment and Delivery.** Seller must comply at Seller's expense with any packing and shipping instructions issued by Owner. Seller is responsible for loss or damage to the Goods caused by improper packing. Seller is responsible for additional costs caused by Seller's failure to comply with shipping instructions. Seller must give Owner immediate notice of its anticipated failure to meet the shipment or delivery schedule. If Goods are not shipped or delivered on time, or in the event of any other failure to perform this Order by Seller, Owner may, at its option, in whole or in part, and without waiving its claim for damages against Seller: (a) cancel the Order; (b) return the Goods to Seller at Seller's expense; (c) keep the Goods; and/or (d) purchase similar goods in the open market, in which case Seller must pay Owner the amount the price paid exceeds the price contained in the Order. Owner's retention of Goods is not acceptance of the Goods. In the event that any cancellation by Owner is determined to be without proper cause, Seller's damages shall be limited to the damages payable under Paragraph 12.

**5. Force Majeure.** Neither party shall be in breach of the Order to the extent that any delay or default in performance is due to causes beyond the reasonable control of the delayed or defaulting party.

**6. Title and Risk of Loss.** Title to and risk of loss of the Goods shall pass to Owner upon delivery and acceptance of the Goods. Title to the Goods shall be free and clear of all liens and encumbrances.

**7. Inspection and Acceptance.** Owner shall have free access to Seller's and its suppliers' facilities for inspection purposes. Upon delivery of the Goods to Owner's site, Owner shall promptly inspect the Goods for conformance to the Order. Owner's inspection or acceptance of the Goods shall not relieve Seller of its obligation to comply with the terms of the Order, or of the design, workmanship or material warranties. Owner may reject nonconforming Goods at any time at Seller's expense.

**8. Warranty.** Seller warrants that the Goods delivered pursuant to the Order shall be free of design, material and workmanship defects, new, and in conformance with the Order. For a period of twelve (12) months from Owner's first use of the Goods, Seller shall repair or replace, at its expense, including any installation or transportation cost, any defective or nonconforming Goods. Owner's acceptance of the Goods shall not relieve Seller of its warranty obligations. If Seller fails to correct a defect within a reasonable period of time, or in the event of an emergency, Owner may repair or replace any defect in warranted Goods at Seller's expense.

**9. On-Site Activities.** At any time while Seller is on Owner's site, Seller shall (a) comply with the workers' compensation and occupational disease law of the state where the services are performed; (b) maintain commercial general liability insurance with limits of not less than \$1,000,000 each occurrence and aggregate; (c) maintain commercial general automobile liability insurance with limits for bodily injury and property damage of not less than \$1,000,000 each accident. Policies written on a claims-made basis shall be maintained for five (5) years after performance of the Order is completed. Prior to entering Owner's site, Seller shall provide Owner with an acceptable certificate of insurance waiving subrogation against Owner, its affiliates, its members and their affiliates and directors, managers, officers and employees of all the foregoing. The certificate of insurance must state that the insurance carrier has issued the insurance specified, that such policies are in force, and that the insurance carrier will give Owner thirty (30) days prior written notice of any material change in, or cancellation of, such policies. Such certificates shall also indicate that Owner, its affiliates, its members and their affiliates, and directors, managers, officers and employees of all the foregoing has been included as additional insureds. Seller shall also provide that each of its insurance policies shall be primary to and non-contributory with any insurance or self-insurance maintained by Owner. The

insurance required by this section shall include contractual liability insurance covering the obligations under this Order.

**10. Compliance with Laws.** Seller shall comply with all applicable laws, rules, regulations and orders of any governmental authority, and will obtain at its expense all permits and licenses, pertaining to its obligations under this Order. Unless exempted, Seller shall comply with the equal employment opportunity clause in Section 202 of Executive Order 11246 and all applicable rules, regulations, and relevant orders pertaining to Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and Section 4212 of the Vietnam Era Readjustment Assistance Act of 1974, as amended. Seller shall comply with all applicable project and site rules. Seller agrees to indemnify and save Owner harmless from and against any liability or damages, including attorneys' fees, for noncompliance therewith by Seller. Seller shall provide Owner with Material Safety Data Sheets for all applicable materials prior to shipment.

**11. Infringement and Confidentiality.** Seller warrants that the purchase or use of the Goods by Owner will not infringe upon or violate any trademarks, patents, copyrights, trade secrets or other third party property rights. Seller agrees to indemnify and save Owner harmless from and against any liability or damages, including attorneys' fees, arising out of any alleged infringement or violation. Each party agrees (a) to protect the Confidential Information of the other with at least the same degree of care used to protect its own most confidential information; (b) not to use (except for the purpose described herein), publish or disclose to third parties such Confidential Information; and (c) upon the request of the other party, to promptly deliver to the other party all written copies of its Confidential Information. "Confidential Information" shall include, but not be limited to, engineering data and the dates of Owner's outage schedule. Notwithstanding the foregoing, Owner may disclose Contractor's Confidential Information to its members and affiliates without the prior written consent of Contractor. Either party may disclose Confidential Information of the other party to the extent required by law, regulation, or judicial or administrative order.

**12. Termination.** Owner may, for its convenience, terminate all or any part of the Order upon notice to Seller. Upon termination, Seller shall immediately stop work on the terminated portion of the Order and shall submit to Owner an invoice with supporting information setting forth the Order price for the Goods delivered prior to the notice of termination, plus Seller's actual, direct unavoidable costs resulting from the termination, less salvage value. Owner shall not be liable to Seller for Seller's lost profits on the terminated part of the Order.

**13. Indemnification.** (a) TO THE EXTENT PERMITTED BY LAW, SELLER SHALL INDEMNIFY, DEFEND AT ITS EXPENSE, AND SAVE OWNER AND ITS MANAGER, MEMBERS, OFFICERS AND EMPLOYEES, AFFILIATES OF OWNER AND ITS MEMBERS HARMLESS, FROM ANY LIABILITIES, COSTS AND CLAIMS, INCLUDING JUDGMENTS RENDERED AGAINST, AND FINES AND PENALTIES IMPOSED UPON, OWNER AND REASONABLE ATTORNEYS' FEES AND ALL OTHER COSTS OF LITIGATION, ARISING OUT OF THE ORDER, INCLUDING INJURIES, DISEASE OR DEATH TO PERSONS, OR DAMAGE TO PROPERTY, INCLUDING ENVIRONMENTAL CLAIMS AND LIABILITIES, CAUSED BY SELLER, ITS EMPLOYEES OR AGENTS, OR IN ANY WAY ATTRIBUTABLE TO THE PERFORMANCE OF THE ORDER, EXCEPT THAT SELLER'S OBLIGATION TO INDEMNIFY OWNER SHALL NOT APPLY TO ANY LIABILITIES ARISING FROM OWNER'S SOLE NEGLIGENCE. (b) In Ohio, Seller shall indemnify and save Owner harmless from any and all costs and expenses, including but not limited to reasonable attorneys' fees and court costs, arising from or relating to injuries, disease or death to persons, or damage to property, including environmental claims and liabilities caused by Seller, its employees or agents, or in any way attributable to the Order. (c) WITH RESPECT TO CLAIMS AGAINST OWNER BY SELLER'S EMPLOYEES, SELLER AGREES TO EXPRESSLY WAIVE ITS IMMUNITY AS A COMPLYING EMPLOYER UNDER THE WORKERS' COMPENSATION LAW, BUT ONLY TO THE EXTENT THAT SUCH IMMUNITY WOULD BAR OR AFFECT RECOVERY UNDER OR ENFORCEMENT OF THIS INDEMNIFICATION OBLIGATION. With respect to the State of Ohio, this waiver applies to Section 35, Article II of the Ohio Constitution and Ohio Rev. Code Section 4123.74. (d) SELLER SHALL PAY OWNER'S REASONABLE ATTORNEYS' FEES AND ALL COSTS OF LITIGATION ASSOCIATED WITH ENFORCEMENT OF THE OBLIGATION SET FORTH IN THIS SECTION.

**14. Limitation of Liability.** Except as expressly provided herein, neither party shall be liable to the other for any incidental, indirect, special, punitive or consequential damages. Seller must bring any cause of action arising under this Order within one (1) year from the time the cause of action accrues.

**15. Miscellaneous.** Seller shall be an independent contractor of Owner in the performance of this Order. No waiver by either party of any default shall be deemed a waiver of any subsequent default. This Order constitutes the entire agreement of the parties. If any provision of this Order is held to be invalid, such invalidity shall not affect the remaining provisions of this Order. This Order shall be governed by the laws of the State of New York.