

SERVICES TERMS AND CONDITIONS (LR)

1. **COMPLETE AGREEMENT:** These terms and conditions (the "Terms"), the corresponding contract to which these Terms are attached or incorporated by reference and Tri-State's specifications or scope of work (collectively, the "Contract") constitute the complete agreement of the parties concerning the subject matter and supersede any previous agreement or understanding, whether oral or written. The services, materials, equipment, work product, and supplies procured by Tri-State under the Contract (collectively, the "Services") shall be furnished by the vendor identified on the face of the Contract ("Seller") subject to the Terms. As used in the Contract, "Seller Representatives" includes Seller's employees, subcontractors, suppliers, and agents (at any tier). No other terms or conditions shall be binding upon Tri-State unless accepted by it in writing. Seller's written acceptance or performance of all or a portion of the Services shall constitute acceptance of the Contract. The terms of any written proposal referred to in the Contract are included and made a part of the Contract only to the extent that such proposal describes the Services, the price and the manner of performance, and only to the extent that such terms do not conflict with the Contract.

2. **MANNER OF PERFORMANCE:** Seller shall perform the Services set forth on the face of the Contract. Seller shall employ persons who possess the skill and training required to properly perform the Services. Seller shall appoint a project manager, who shall be available at all times while the Services are in progress. The project manager shall be competent with experience in the type of Services being performed and capable of properly interpreting the Contract. The project manager shall have full authority to act upon instructions from Tri-State.

Seller represents as of the date of the Contract to each of the following:

- A. Seller has investigated and carefully examined the scope of the Services and understands the nature and character of the Services to be performed.
- B. Seller and Seller Representatives have the relevant experience and specialized knowledge to perform the Services.
- C. Seller, to the best of its knowledge, is not owned by, controlled by, or subject to the jurisdiction or direction of a "foreign adversary" and none of the Services were or will be designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a "foreign adversary," where the term "foreign adversary" has the meaning set forth in the Executive Order on Securing the United States Bulk-Power System, issued on May 1, 2020 ("Bulk Electric Executive Order") and any rules or regulations issued pursuant to the Bulk Electric Executive Order.
- D. Seller is licensed under applicable state law to engage in the Services, it is in compliance with all laws and regulations applicable to the Services, and it is aware that Tri-State is relying on Seller's skill and judgment in providing the Services to Tri-State.
- E. The Services and other work performed by Seller do not infringe upon any copyright, patent, trade secret, or other intellectual property right of any third party, and Seller has neither assigned nor otherwise entered into an agreement (oral or written) by which it purports to assign or transfer any right, title, or interest in any technology or intellectual property right that would conflict with its obligations under the Contract.

3. ACCEPTANCE OF SERVICES; WARRANTY:

- A. Acceptance. The Services shall be subject to review, inspection and testing by Tri-State at all times and places. If, prior to final acceptance and final payment, any Services are found to be incomplete or not as specified, Tri-State may (i) reject them and require Seller to correct them without charge or (ii) require delivery of such Services at a reduction in price that is equitable under the circumstances. Seller shall bear risk for all rejected Services. If Seller is unable or refuses to correct the Services within a time deemed reasonable by Tri-State, Tri-State may terminate the Contract in whole or in part for Seller's

default. Notwithstanding acceptance and payment, Seller shall be liable for latent defects. Title and risk of loss or damage to the Services shall transfer from Seller to Tri-State upon acceptance.

- B. Warranty. Seller warrants that the Services furnished shall comply with the Contract and be free from all defects or failures for a period of 18 months after final acceptance and final payment by Tri-State. If the Services do not conform to such standards, Seller shall, upon notice from Tri-State within the warranty period, promptly re-perform and make corrections to such Services, at its own expense, to the extent necessary to satisfy the requirements of the Contract. The provisions of this Section shall then apply to said repaired or replaced Services for a period of 18 months from the date such repairs or replacements were completed. If Seller is unable or refuses to correct warranted Services within a reasonable time, Seller shall reimburse Tri-State for the reasonable costs incurred by Tri-State to correct such nonconformance.

4. ORDER MODIFICATION: Tri-State may notify Seller of changes to the Services and subsequently confirm such changes in writing. If the price or time required for performance is affected, Tri-State shall equitably adjust the price or time, as applicable. No change by Seller shall be recognized without written approval of Tri-State. Seller must make a written claim for an adjustment to the performance period or price within 10 days from the date of receipt of notice of a change in the Services. Nothing in this Section shall excuse Seller from proceeding with performance of the Services as modified by Tri-State.

5. TERM; SUSPENSION; TERMINATION; REMEDIES:

- A. The Contract shall automatically terminate after final acceptance of the Services and final payment by Tri-State, except that this Section 5 and Sections 3, 6(F), 7-11, 14, 15, 19-21, 23 and 26-29 of these Terms shall survive any such termination.
- B. Except as provided in Sections 18 and 19, Tri-State may suspend performance of the Services in whole or in part for up to 30 days at any time on written notice to Seller and in such event, Tri-State shall issue a change order reflecting an equitable adjustment to the price or time, as applicable, upon resumption of the Services.
- C. Tri-State may terminate the Contract in whole or in part for convenience at any time on written notice to Seller and in such event, Tri-State shall compensate Seller through the effective date of termination for the unit or pro rata price for Services performed and accepted.
- D. Tri-State may terminate the Contract in whole or in part if Seller defaults in the performance of the Services or breaches any provision in the Contract and: (i) Seller does not cure such default or breach after written notice from Tri-State within a reasonable time as determined by Tri-State or (ii) Tri-State determines in its reasonable discretion that such default or breach cannot be cured. Seller shall be liable to Tri-State for all costs and expenses in connection with such default or breach.
- E. Tri-State may terminate the Contract in whole or in part upon written notice to Seller if Tri-State reasonably believes such termination is necessary in order to comply with the Bulk Electric Executive Order, including any rules or regulations issued pursuant to the Bulk Electric Executive Order. In such event, Seller shall promptly refund to Tri-State any payments made by Tri-State and Tri-State shall promptly return, at the expense of Seller, any equipment or facilities already delivered by Seller. Tri-State shall have no further obligation or liability to Seller arising out of this termination.
- F. Tri-State's rights and remedies in this Section shall not be exclusive and are in addition to any other rights and remedies provided at law or in equity including injunctive relief and specific performance.

6. SECURITY REQUIREMENTS:

- A. Seller shall ensure that it is in compliance with all Federal and state employment laws and regulations governing verification of eligibility of employment for individuals hired by Seller or Seller Representatives prior to permitting such persons to perform Services.

- B. Seller and Seller Representatives will enter and exit Tri-State's facilities through security access areas, if any. In instances where Seller or Seller Representatives require access to highly secure areas of Tri-State's facilities and systems, at Tri-State security's discretion, Seller or Seller Representatives may be required to: (i) undergo a background check, (ii) respond to security questionnaires, (iii) verify social security numbers, and (iv) complete any other training required by Tri-State. Tri-State may deny access to certain areas based on information obtained through this additional screening process and may contact appropriate authorities if the situation warrants.
- C. Seller Representatives shall be required to show a valid US Government photo ID (state or Federal), such as a driver's license, law enforcement ID, U.S. military ID, U.S. passport, or current INS card, prior to obtaining a badge and entering the worksite. Individuals without valid photo ID will not be permitted to enter the worksite or receive a badge.
- D. Prior to commencing the Services at a worksite, Seller shall deliver a detailed list to Tri-State of all Seller Representatives who will perform the Services at the worksite. The list shall include each person's name, type of valid photo ID and its unique ID number. This list shall be updated weekly and delivered to Tri-State's security staff for purposes of checking individuals into and out of a worksite.
- E. Specific badging instructions unique to any of Tri-State's facilities shall be covered at pre-work or pre-outage safety briefings. Badging procedures may vary depending on, among other things, the particular services, the number of workers, or the time required to perform the Services. Badges issued by Tri-State shall be visibly displayed at all times while on the worksite. Failure to do so will result in removal from the worksite by Tri-State's security personnel.
- F. If a Seller Representative quits or is terminated, Seller shall promptly return any ID badge issued by Tri-State on behalf of such individual. If an ID badge is lost or stolen, Seller shall immediately notify Tri-State and provide written documentation describing the particular event. Any Tri-State related costs for replacement of missing badges shall be charged to Seller's account.
- G. No weapons of any type, including, but not limited to, firearms, archery equipment, explosive or incendiary devices, drugs (unless prescription drugs authorized by a doctor), alcohol or pets are allowed on Tri-State's facilities. Any person observed with any such prohibited item may be immediately removed from the worksite and detained for local law enforcement authorities.
- H. Tri-State's security staff may examine or search any items brought on or removed from the worksite and may examine or search at any time, in the presence of Seller or a Seller Representative, any enclosure on the worksite, including but not limited to, storage bins, tool cribs, boxes, vehicles, construction equipment, office trailers, tool trailers, and lunch boxes. Items belonging to Seller or a Seller Representative shall also be subject to search, with or without the presence of Seller or a Seller Representative.
- I. On request, Seller shall provide Tri-State with a list of worksite equipment, tools, parts and materials, which list may be used to conduct inventory inspections.
- J. Seller is responsible for transporting Seller Representatives to the worksite and responsible for securing its worksite at Tri-State's facility, including, but not limited to: fencing of laydown areas, locks and keys, fabrication, electrical power connections, coverings for equipment or materials, warehousing, lighting, etc.
- K. To the extent Seller is providing control or monitoring systems that will interface with Tri-State's control systems via transmission control protocol/internet protocol (TCP/IP), Seller shall promptly provide, upon request and at no additional cost, information related to each cyber system as Tri-State may request including operating and application system information and ports.
- L. Seller shall confine Seller Representatives to that portion of Tri-State's facilities where the Services are performed or to roads or areas leading to and from such worksites and to any other area which Tri-State has expressly permitted Seller and Seller Representatives to use.

- M. Harassment of any type, threats of violence, or actual violence, will not be tolerated. Allegations of any of the above will be investigated and if substantiated, the perpetrator will be removed from the worksite and not allowed to return. If necessary, the perpetrator may be detained by security personnel until local law enforcement authorities arrive.
- N. Seller Representatives performing work at Tri-State facilities shall immediately notify Tri-State after becoming aware that they have a communicable disease. The Seller Representative shall cease performing work at Tri-State facilities until the communicable disease is no longer transmissible.
- O. Tri-State may deny access, or remove and ban from its facilities, anyone who violates the foregoing security provisions, has a questionable background, behaves erratically or suspiciously, or jeopardizes Tri-State's security measures, equipment, facilities, or personnel. Physical force may be authorized to prevent security incidents and law enforcement may be notified. Tri-State may change its security procedures at any time without explanation. Changes in security procedures may result in complete lockdown of worksites, increased searches, denial of access to worksites, or other measures.
- P. To the extent Seller will be deploying or connecting any cyber asset (such as a laptop, cell phone, and tablet) or removable media device (such as a compact disk, USB flash drive, and external hard drive) to Tri-State's distributed control system(s), prior to such deployment or connection, Seller shall comply with any request by Tri-State for Tri-State to scan such device for malicious code.

7. RESERVED.

8. LIABILITY FOR TRI-STATE-FURNISHED PROPERTY: Seller assumes all liability for any tools, equipment, materials or other items loaned or provided by Tri-State to Seller or a Seller Representative in connection with the Contract, and Seller shall compensate Tri-State for any lost or broken tools or equipment and any materials spoiled by Seller or a Seller Representative.

9. PRICES, INVOICES, AND PAYMENT: Prices are as indicated on the face of the Contract. Import and export duty/tariffs and brokerage fees shall be included in the price. Any increase or change in any import or export duty/tariffs or brokerage fees shall not entitle or permit Seller to increase the price, suspend or delay delivery of the Services, or claim a force majeure event or commercial impracticability. Seller shall submit an invoice, together with appropriate supporting information such as subcontractor invoices, expense receipts over \$25 and any other reasonable backup documentation as Tri-State may require, covering compensation due Seller for Services rendered under the Contract during the preceding month. Sales, purchase, use, and any other taxes shall be itemized separately from the Services on Seller's invoices. Unless otherwise specified or required by law, Tri-State shall review, approve and pay each non-disputed invoice within 30 days of receipt thereof, unless a delay is caused by any condition within the control of Seller. Until Seller has provided the information required by Tri-State and completed any forms required by Tri-State to allow payment by electronic means, all payments will be made to Seller by check. If Seller's payment address or method of payment changes, Seller must contact Tri-State's Accounts Payable Department via AccountsPayableDept@tristategt.org at least thirty (30) days prior to the effective date of such change. Tri-State shall have the right to set off any payments owed by Seller. The review, approval and payment of any invoice by Tri-State shall not preclude Tri-State from thereafter disputing any of the items involved in the invoice. Each invoice shall have the Contract number clearly stated on the first page of the invoice.

10. PAYROLL TAXES: Seller shall pay all contributions, taxes and premiums measured upon its employee payroll or applicable to the Services, and Seller shall hold Tri-State harmless from liability for any such contributions, taxes and premiums.

11. EXAMINATION OF RECORDS: Tri-State may examine and copy any pertinent books, documents, papers and records of Seller in connection with the Services until the expiration of 3 years after final payment.

12. INDEPENDENT CONTRACTOR: Seller and each Seller Representative shall be an independent contractor, and no action, tax, assessment or liability of Seller or a Seller Representative becomes, by reason of the Contract, Tri-State's obligation.

13. CHARACTER OF SERVICES: Seller shall furnish all equipment, personnel, and material sufficient to perform the Services in accordance with the Contract expeditiously and efficiently during the hours and shifts and at the locations designated by Tri-State. Time is of the essence in the performance of the Services, and Seller shall abide by all applicable project schedules in its performance.

14. INDEMNIFICATION:

- A. To the maximum extent permitted by law, Seller shall indemnify, defend and hold harmless Tri-State and its directors, members, subsidiaries, officers, employees and agents from and against all claims, demands, causes of action or suits of whatever nature for losses, liability, damages, fines, penalties, awards, judgments, reasonable attorneys' fees, costs, or expenses including bodily injury or death to persons or property damage caused by or resulting from one or more of the following: (i) Seller's or a Seller Representative's negligence or intentional misconduct (but only to the extent of such negligence or intentional misconduct) in connection with performance of the Services; (ii) all laborers', materialmen's, and mechanics' liens threatened or filed of record against Tri-State's property in connection with the Services; (iii) any misrepresentation or breach of a covenant, representation or warranty of Seller in connection with the Contract; (iv) any violation or failure of Seller or a Seller Representative to comply with applicable laws, rules and regulations (including health, safety and environmental laws, rules and regulations); and (v) any third party claim of infringement of any patent, trademark, copyright, trade secret, or other intellectual property right utilized in connection with the Services. If use of an intellectual property right is enjoined, Seller shall procure for Tri-State the right to continue to use such intellectual property, or shall promptly provide a non-infringing substitute acceptable to Tri-State. Seller shall also promptly notify Tri-State in writing of any claim, demand, cause of action or suit brought in connection with the Services.
- B. Nothing in the Contract is intended to create or shall be construed or applied to create any obligation, agreement, covenant or promise to indemnify, hold harmless, insure or defend declared by NMSA 1978, § 56-7-1 et seq., as heretofore and hereafter amended, to be against public policy, void or unenforceable. Notwithstanding any other term or condition in the Contract, to the extent, if at all, any agreement to indemnify, hold harmless, insure (including the requirement to name the additional party as an additional insured), or defend another party (including such party's directors, members, officers, employees and agents) contained anywhere in the Contract is found by a court to be within the scope of NMSA 1978 §56-7-1 et seq., for its enforceability, then such agreement will not extend to liabilities, claims, damages, losses or expenses, including reasonable attorneys' fees, arising out of bodily injury or death to persons or property damage caused by or resulting from, in whole or in part, the negligence, act or omission of the indemnitee, its directors, members, officers, employees and agents.

15. LIENS: Seller shall not receive final payment from Tri-State until it delivers evidence to Tri-State of a complete release of all liens arising in connection with the Contract, and an affidavit signed by an authorized officer of Seller that Seller has paid in full all laborers, materialmen and suppliers; but Seller may, if any subcontractor or supplier refuses to furnish a release, furnish a bond satisfactory to Tri-State indemnifying Tri-State against any claim by lien or otherwise. If any lien or claim remains unsatisfied after final payment from Tri-

State, Seller shall promptly refund to Tri-State all monies necessary to discharge such lien or claim, including all costs and reasonable attorneys' fees.

16. MAINTENANCE OF WORKSITE: Seller shall at all times keep the worksite and adjoining premises free from waste materials and rubbish, and at the completion of the Services, Seller shall remove all waste, rubbish, tools, scaffolding and surplus materials and shall leave the worksite "broom clean" or its equivalent. Prior to leaving the worksite, Seller and Tri-State shall mutually determine the appropriate use and/or disposal of any residual contracted or purchased quantities of chemical or petroleum products. Seller shall coordinate waste management activities with Tri-State to ensure compliance with Tri-State's permits and all applicable Environmental Laws (as defined in Section 19 below). Seller shall use Tri-State-approved waste vendors, transporters, storage companies, and disposal facilities for managing and disposal of waste materials. If Seller fails to comply with the obligations in this Section, Tri-State may perform the same and charge its costs to Seller or offset payment to Seller accordingly.

17. PERSONNEL: Seller shall employ persons who are skilled and properly trained for the Services, at least 18 years of age, and shall devote only the best-qualified personnel to perform the Services. Should Tri-State deem, in its sole discretion, anyone incompetent or unfit to perform the Services and so inform Seller, Seller shall immediately remove such person from employment under the Contract.

18. SAFETY: Seller shall protect the health and safety of all personnel and the general public and shall comply with all applicable health and safety laws, regulations and requirements. If safety or health deficiencies are observed by Tri-State during the performance of the Services, Tri-State may, in its sole discretion, issue a written "safety deficiency notice" or oral notice to Seller for items such as, but not limited to, unsafe conditions, unsafe personnel, or non-compliance with Occupational Safety and Health Administration regulations. Such notice may, in Tri-State's sole discretion and without prejudice to any of Tri-State's other rights, require that Seller stop all or any part of the Services. Seller shall address and correct the conditions identified in the notice in a timely fashion and notify Tri-State when such conditions have been corrected. Tri-State will not compensate Seller for costs and expenses associated with such safety or health notices or stoppage of work. Seller will not be allowed to add time to schedules, or avoid other obligations under the Contract due to such safety or health notices or stoppage of work.

19. ENVIRONMENTAL COMPLIANCE: Tri-State's policy is to comply with "Environmental Laws", as defined below. Seller shall have the sole responsibility for compliance with all Environmental Laws applicable to the Services. If Seller at any time fails to comply with any Environmental Laws, it shall immediately notify Tri-State of such non-compliance orally with prompt written confirmation of such non-compliance. Seller shall not take any corrective, clean-up or remedial action without the consent and approval of Tri-State to the corrective, clean-up or remedial action being taken; provided that Seller shall take immediate corrective, clean-up or remedial action if any failure to act will endanger the health and safety of any person or damage the environment. If Seller violates any Environmental Laws, fails to notify Tri-State of any non-compliance or fails to take appropriate corrective, clean-up or remedial action, Tri-State, without prejudice to any other rights it may have under the Contract or applicable law, in addition to the remedies available under the Contract, may (i) take all necessary corrective, clean-up or remedial action, the cost of which shall be reimbursed to Tri-State by Seller; and/or (ii) withhold any amounts due to Seller under the Contract until all corrective, clean-up or remedial action has been taken and all costs incurred by Tri-State have been reimbursed. Tri-State may issue an order stopping all or any part of the Services under this Section, and if Services are stopped, Seller shall not be entitled to an extension of time or additional fees or charges to perform the Services.

Seller shall immediately advise or notify (i) Tri-State's shift supervisor on duty and owner authorized technical representative for Services performed at generation stations (Craig, Nucla, Escalante, or combustion turbines) or (ii) Tri-State's dispatch personnel at the following number: 1-800-230-6180 or ext. 3646 for Services performed at transmission facilities, headquarters, or field facilities, of any non-compliance with any Environmental Laws or any spills, leaks, releases or discharges of any substance.

For purposes of the Contract, "Environmental Law or Laws" shall mean any and all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any governmental authority regulating, relating to or imposing liability or standards of conduct concerning environmental protection, health or safety matters, as they may now exist or be hereinafter amended, including all requirements pertaining to reporting, licensing, permitting, investigation, removal or remediation of emissions, discharges, releases, or threatened releases of hazardous materials, chemical substances, pollutants or contaminants or relating to the manufacture, generation, processing, distribution, use, treatment, storage, disposal, transport, or handling of hazardous materials, chemical substances, pollutants or contaminants, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended, 42 USC §§ 9601, et seq., the Toxic Substances Control Act ("TSCA"), as amended, 15 USC §§ 2601, et seq., the Solid Waste Disposal Act, as amended, including the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 USC §§ 6901, et seq., the Clean Air Act ("CAA"), as amended, 42 USC §§ 7401, et seq., the Federal Water Pollution Control Act (Clean Water Act or "CWA"), as amended, 33 USC §§ 1251 et. seq. the Federal Insecticide, Fungicide, Rodenticide Act ("FIFRA"), as amended, 7 USC §136 et. seq., and the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 USC §§ 5101, et seq.

20. COOPERATION; PROPERTY DAMAGE: Seller shall cooperate with Tri-State and third parties employed at or near the worksite and shall not hinder, delay or interfere with the progress of the work of others. At Tri-State's request, Seller shall, at its expense, promptly repair or reimburse the party for any damage caused by Seller or Seller Representatives to Tri-State's or a third party's property.

21. INSURANCE REQUIREMENTS:

- A. Seller shall, and require Seller's subcontractors to, take out and maintain throughout the term of the Contract and for a period of 1 year after termination of the Contract and during any on-site warranty work insurance in the following types and amounts:
 - i. Workers' compensation insurance with minimum statutory limits to cover obligations imposed by federal and state statutes applicable to its employees and employers' liability insurance for bodily injury by accident of \$500,000 each accident, bodily injury by disease of \$500,000 each employee and \$500,000 each accident; and
 - ii. Commercial general liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 annual aggregate. Such insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Limits may be achieved by a combination of commercial general liability and follow form claims made excess liability coverage. Such policy shall provide completed operations coverage for additional insured; and
 - iii. Comprehensive automobile liability insurance with a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage. Such policy must cover owned, non-owned, and hired vehicles, trailers or semi-trailers designed for travel on public roads; and
 - iv. Professional liability (E&O) insurance with a 1 year extended reporting period in an amount of \$1,000,000 per claim and \$1,000,000 annual aggregate; provided that such insurance is only

required if the Services involve professional services including, but not limited to, engineering, architectural, surveying or consulting services.

- B. Insurance policies may include a deductible or self-insured retention reasonably acceptable to Tri-State. The required insurance policies (except workers' compensation and professional liability), through policy endorsement, shall each state that they are primary and non-contributing with respect to any insurance maintained by Tri-State or its subsidiaries. The certificates of insurance shall state that each of such policies is primary and non-contributing with respect to any insurance carried by Tri-State or its subsidiaries. There shall be no endorsement or modification limiting coverage for liability assumed under an insured contract.
- C. Seller and its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against Tri-State and its subsidiaries, officers, employees, and agents for all claims and suits. The certificates of insurance must reflect the waiver of subrogation endorsement.
- D. The policy for commercial general liability insurance must include cross liability coverage either by way of separation of insureds clause or otherwise. Tri-State, its subsidiaries, officers, employees, and agents must be named as an additional insured with respect to the Services and must be indicated on all certificates of insurance required by this Section (except workers' compensation and professional liability).
- E. Prior to performing Services pursuant to the Contract, Seller shall provide Tri-State acceptable certificates of insurance evidencing the required coverages, endorsements, and if requested insurance policies. Seller shall provide copies of all insurance policies and endorsements required in this Section to Tri-State within 10 days of Tri-State's written request. Each insurance policy shall provide by endorsement for 30 days written notice to Tri-State prior to the effective date of any cancellation or material adverse change, and in the event of cancellation for non-payment of premium, 10 days prior written notice; provided, however if Seller is unable to abide by such requirements, Seller must notify Tri-State immediately should any of the above described policies be cancelled before the expiration date, if the insured receives a non-renewal notice from its carrier, or any material adverse change of coverage. Seller must cease operations under the Contract and not resume operations until required coverage is in place and proof is provided to Tri-State.
- F. In the event any of the Services are to be performed in Wyoming, Seller is not a resident of Wyoming, and the performance of the Services in Wyoming will take longer than three (3) days, Seller shall be required to purchase workers' compensation insurance coverage, with statutory liability limits, directly from the State of Wyoming's monopolistic state fund. Coverage cannot be purchased from a private insurance company or agent. Additionally, because employer's liability insurance is not available in Wyoming, Seller must purchase a "stop-gap" endorsement to its commercial general liability policy. Prior to performing any Services on any Tri-State property in Wyoming, Seller shall provide satisfactory written evidence to Tri-State that such workers' compensation and stop-gap coverage are in place. If Seller is not a resident of Wyoming, and Services are to be performed in Wyoming, Seller shall comply with Wyoming statute §27-1-106 et. seq. regarding surety bonds or other security. Prior to performing any Services, Seller will provide satisfactory written evidence to Tri-State of such compliance.

22. PERMITS; COMPLIANCE WITH LAW: Unless otherwise stated on the face of the Contract, Seller shall procure all permits and licenses and abide by all applicable laws, regulations, and ordinances in the locale where the Services are performed.

23. WORK PRODUCT: Upon payment for the Services, title and rights to all drawings, specifications, reports, and other work product of the Services prepared and furnished under the Contract shall vest in Tri-State.

24. **WAIVERS:** If Tri-State fails at any time, or from time to time, to enforce or require the strict performance of the Contract, such failure shall not constitute a waiver by Tri-State of a breach of the Contract, or the right of Tri-State to seek any remedy available to it for any such breach.

25. **ASSIGNMENT:** The Contract is assignable by Tri-State at any time. The Contract may not be assigned by Seller and none of Seller's obligations may be delegated or subcontracted without Tri-State's advance written consent.

26. **CONFIDENTIALITY:** Seller shall keep confidential and not, and Seller shall ensure that each Seller Representative shall keep confidential and not, disclose (i) any information furnished to it by Tri-State that is either marked "proprietary" or "confidential" or under the circumstances, could reasonably constitute confidential or proprietary information and (ii) all work product or deliverables developed by it as part of the Services (collectively, "Confidential Information"); provided that Seller may disclose such Confidential Information to Seller Representatives who have a "need to know" so long as such persons agree to protect the confidentiality of such information in accordance with this Section. Seller and each Seller Representative shall not use the Confidential Information for any purpose other than performing the Services. Seller and each Seller Representative shall use the same degree of care to protect such Confidential Information as such party uses with respect to its own confidential information, but in no event, less than a reasonable degree of care. Seller shall implement reasonable security procedures and practices designed to protect the Confidential Information from unauthorized access, use, modification, disclosure or destruction. Seller shall immediately notify Tri-State of any breach by Seller or Seller's Representative of this Section. The obligations contained in this Section shall not apply to information that: (y) was already in Seller's (or a Seller Representative's) possession other than through a breach of this Section or (z) was or becomes generally available to the public other than through a breach of this Section.

27. **SEVERABILITY:** If any of the part of the Contract is held invalid by a court having jurisdiction, Tri-State may substitute a term or provision as similar in terms as possible to such invalid term, and, in any event, the remainder of the Contract shall remain in full force and effect.

28. **GOVERNING LAW; JURISDICTION; WAIVER OF JURY TRIAL:** Unless otherwise required by law, the Contract is governed by the laws of the State of Colorado without regard to its choice of law provisions. Jurisdiction and venue for any legal proceedings in connection with the Contract shall be in Adams County, Colorado. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION RESULTING FROM THE CONTRACT.

29. **COUNTERPARTS:** The Contract, including these Terms, if applicable, may be executed in counterparts, each of which shall constitute an original agreement, but all of which together shall constitute one and the same instrument. The parties agree that the Contract, including these Terms, if applicable, may be electronically signed. The parties agree that the electronic signatures appearing on the Contract, including these Terms, if applicable, are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

30. **SANCTIONS:** Seller shall refrain, and cause its subsidiaries to refrain, from doing business in a sanctioned country or with a sanctioned person, in each case in violation of the economic sanctions of the United States administered by the Treasury's Office of Foreign Assets Control ("Sanctions"). Seller shall not (a) directly or indirectly use the money paid by Tri-State pursuant to the Contract or otherwise make available such money to any person to fund, any activities of or business with any person, or in any sanctioned country, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any person of Sanctions or (b) directly or indirectly use the money paid by Tri-State pursuant to the Contract for any

purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 or other similar legislation in other jurisdictions.

31. EEO CERTIFICATION: The parties hereby incorporate the requirements of 41 C.F.R. § 60-1.4(a) and 29 C.F.R. § 471, Appendix A to Subpart A, if applicable; and the Seller and Seller's subcontractor(s) shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), if applicable. These regulations prohibit discrimination against qualified protected veterans and qualified individuals with disabilities, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.