

**MASTER SERVICE AGREEMENT
BETWEEN
EVERGY SERVICES, INC.
AND
SUPPLIER**

THIS MASTER SERVICE AGREEMENT No. (Master Number) (“Agreement”) is effective as of (Master Effective Date) and is between Evergy Services, Inc., a Missouri corporation (“ESI”), and (Supplier Name), a (UCC Filing State) (Business Type) (“Supplier”). The parties agree as follows:

1. **Scope.** This Agreement sets forth the terms and conditions that apply to all requests for services (the “Services”) which ESI may make of Supplier and all orders for goods (the “Goods”) which ESI may place with Supplier, from time to time during the term of this Agreement. In the event Supplier supplies Goods in conjunction with any Purchase Order or otherwise, the terms and conditions of Exhibit A to this Agreement will apply to such purchase in addition to the terms and conditions contained herein. If only Services are supplied under this Agreement, Exhibit A will be of no effect. Any Services or Goods provided pursuant to this Agreement shall be specifically defined in separate Purchase Orders (the “Purchase Order”), substantially in the form attached hereto as Exhibit B. ESI and Supplier may enter into separate statements of work (each, a “Statement of Work”), substantially in the form attached hereto as Exhibit C, generally describing certain Services and Goods to be provided by Supplier under this Agreement. Statements of Work may include, but will not be limited to, pricing, schedule, specifications for Services and Goods and additional delivery instructions. In the event ESI desires to order Services and Goods in accordance with a particular Statement of Work, ESI will issue a Purchase Order referencing the appropriate Statement of Work, and such Purchase Order will describe the specific Services and Goods that the parties mutually agree the Supplier will provide to ESI. For Services or Goods totaling two thousand dollars (\$2,000) or less, ESI may elect to purchase with a credit card in lieu of issuing a Purchase Order. In such instances, the terms and conditions contained in this Agreement shall nevertheless apply to the purchase.

This Agreement or any Statement of Work does not commit ESI to order any Services or Goods, however, all Services provided by Supplier to ESI or ESI affiliates (as defined in Section 4) during the term of this Agreement will be covered by this Agreement, unless specifically covered by another written agreement between the parties.

This Agreement supersedes any preprinted terms or conditions on any preprinted purchase order submitted by Supplier or ESI or any printed or typed conditions forming a part of Supplier’s proposal. Any additional or different terms and conditions set forth in Supplier’s invoices, purchase order acknowledgments or similar writings, or in Supplier’s electronic data interchange acknowledgments are not binding upon ESI unless specifically assented to in writing by an authorized representative of ESI.

2. **Purchase Orders.** The Services or Goods should be described specifically in one or more Purchase Orders. Supplier shall not commence Services or delivery of Goods without receipt of a Purchase Order from ESI or any of its affiliates. Following the issuance of a Purchase Order, Supplier will furnish the Services and Goods identified in the Purchase Order. Supplier’s commencement of performance under a Purchase Order shall constitute acceptance of the Purchase Order.

3. **Specifications for Services.** Services will be performed in accordance with the specifications, schedule and pricing and other terms agreed to by the parties as described in the applicable Purchase Order and/or Statement of Work.

4. **Affiliate Transactions.** ESI enters into this Agreement on its own behalf and for the benefit of all ESI affiliates. ESI's affiliates may directly purchase any of the goods or services available under this Agreement under the same terms and conditions contained herein. An "affiliate" will be defined as any entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with ESI. Only the ESI affiliate for whom Supplier performs Services will have any obligation to Supplier for such Services.

5. **Project Managers.** For each Purchase Order and/or Statement of Work, each party shall designate a "Project Manager" as the main interface between them. The ESI Project Manager shall be responsible for directing Supplier's activities pursuant to such Purchase Order and/or Statement of Work but shall not be solely authorized to negotiate or approve Change Orders submitted pursuant to this Agreement. Periodically (at a mutually-agreed-upon time period), Supplier shall submit to ESI a written status report describing its activities and accomplishments during the preceding month, including: the current status of activities (with explanatory narrative when appropriate); resources used since the last report; a cumulative total of problems encountered and the actions taken to solve them. Upon request, ESI shall meet with Supplier to review the status of Supplier's activities. When on ESI's premises, Supplier employees shall observe and comply with ESI's procedures, rules, regulations, policies, working hours and holiday schedules, and Supplier shall at all times use its best efforts to minimize any disruption to ESI's normal business operations. ESI shall provide ample working space, materials and computer support for Supplier's employees, when required.

6. **Acceptance.** Each Purchase Order and/or Statement of Work will include or reference a complete and full description of the Services to be performed, documentation or other materials to be produced, the schedule for completion of each of the foregoing, the applicable charges, and such additional information as the parties shall agree upon (collectively, the "Deliverables"). Each Deliverable shall be subject to a verification of acceptability by ESI requirements specified in the Purchase Order for that project. If any Deliverable is not acceptable to ESI within thirty (30) days after its completion and turnover by Supplier, ESI may, at its sole option and without obligation or liability of any kind, terminate the Purchase Order involved and reimburse Supplier, upon receipt of an invoice and appropriate backup documentation, for direct expenditures that cannot be redirected to other work in Supplier's normal course of business. If any Deliverable is not acceptable to ESI within thirty (30) days after its completion and turnover by Supplier due to the fact that the Deliverable substantially deviates from the requirements specified in the Purchase Order, Supplier shall make good faith efforts to correct such deviations in the Deliverable. In the event Supplier has not cured such deviation within sixty (60) days of written notice from ESI, ESI may terminate the Purchase Order involved without obligation to Supplier for any costs or expenditures.

7. **Fees and Expenses.** Applicable fixed prices and/or time and material charges shall be specified on the Purchase Order and/or Statement of Work. In no event shall charges exceed Supplier's applicable published standard rates. ESI agrees to pay for reasonable out-of-pocket costs and expenses required and actually incurred in performing services, provided that Supplier has: (i) obtained ESI's prior written consent; and (ii) submitted supporting documentation satisfactory to ESI, and conforming to the following general guidelines:

- (a) All air travel must be coach or economy and booked at least fourteen (14) calendar days in advance, unless a shorter time period is required by ESI. All parking, transportation and car rental must be economy or lower. Supplier will not charge hourly rates for travel time. This includes time "To and From" Airport, during the flight, and "To and From" home/office. Additional personal expenses (phone charges, dry cleaning, etc.) will not be reimbursed; and
- (b) Reimbursable expenses will be invoiced on a monthly basis on the same invoice as the Services to which such expenses correspond. In addition to clearly identifying any expenses on the

invoice, Supplier must submit an expense report. The expense report must contain: (i) passenger flight coupon and travel itinerary; (ii) the original receipt for meals and parking and toll fees (tear tab receipts are not accepted); and (iii) the original receipt for hotel accommodations, vehicle rental costs, and fuel costs for rental vehicle usage (regardless of the amount).

Supplier agrees that where business meals or entertainment expenses are billed by Supplier to ESI, Supplier shall not invoice or transfer charges to ESI for any reimbursement of expenses in violation of IRS rules relating to expense deductibility limitations. Additional guidelines related to Hotel and Meal expenses for Services performed at Evergy facilities will be defined in the relevant Purchase Order and/or Statement of Work.

8. **Invoices and Related Documents.** Unless another payment schedule is specified in the Statement of Work or on the Purchase Order, Supplier shall invoice ESI: (i) upon ESI's written acceptance of any Deliverables, products or work performed on a fixed price basis, or, in the absence of notification rejecting the Deliverable, product or work, upon the passage of thirty (30) days' time since delivery of the Deliverable, Goods or Services to ESI; or (ii) monthly in arrears, for services provided on a time and materials basis and for out-of-pocket expenses. Supplier shall submit to ESI, with the invoice, backup documentation for all amounts invoiced. All invoices, except for amounts disputed by ESI, shall be payable within ESI's approved payment terms. Any disputed amounts shall not affect payment of non-disputed charges and expenses. All invoices must reference this Agreement number, the appropriate ESI contact person and, if applicable, the relevant Purchase Order number. Invoices must be sent via email to acctspay@kcpl.com for Legacy KCP&L Purchase Orders or 8882973051@onlinecapturecenter.com for Legacy Westar Purchase Orders, and must be sent in accordance with the instructions listed within each relevant Purchase Order. Each invoice must be attached as a separate Acrobat, Word or Excel file. The invoice must be the first page of the attached file with supporting documentation following the invoice in the same attachment. All payments to Supplier will be paid by ESI's approved payment methods. At least one business day prior to payment, ESI will email Supplier with notification of payment to Supplier provided email address.

Invoices must be submitted to ESI within one (1) year of the date of completion of Services. Should Supplier fail to timely submit any invoice to ESI, the right to reimbursement for such Services is waived by Supplier.

9. **Taxes.** Supplier shall be solely responsible for payment of any taxes whatsoever which may be assessed against Supplier or which may apply to the delivery of Goods and performance of Services, or the payment for Goods and Services. To the extent that any such taxes are proposed to be assessed against Supplier, where Supplier is required to collect from ESI under the applicable state or local tax law, Supplier shall: (i) notify ESI of such proposed assessment as soon as Supplier shall have notice thereof; and (ii) cooperate with ESI in any defense against the proposed assessment.

10. **Term.** The term of this Agreement is (Contract Term Length) years from the effective date. The terms of this Agreement continue in effect for any Purchase Order that is outstanding at the time this Agreement terminates or expires.

11. **Termination.** ESI may, upon thirty (30) days prior notice, terminate this Agreement for any reason and without penalty. Either party may terminate this Agreement immediately upon notice to the other party if such other party is in material breach of this Agreement and if such other party fails to cure the breach within ten (10) days after receiving notice thereof. This Agreement will continue in effect for any Purchase Order that is outstanding at the time of termination or expiration of this Agreement, unless such Purchase Order has been cancelled according to the terms of this Agreement. Termination by ESI for Supplier's breach shall not prejudice any claims by ESI against Supplier for damages or non-performance during the entire term of this Agreement.

12. **Cancellation of Services.** ESI may cancel any commitment to purchase Services or any Purchase Order upon notice to Supplier. Upon receipt of notice of cancellation of a Purchase Order, Supplier must discontinue its performance of such cancelled Services, preserve and protect materials, work in progress and completed work and, if requested by ESI, transition the performance of such Services to ESI or a third party in accordance with ESI's instructions. ESI may designate a transition period of up to three (3) months. ESI agrees to pay Supplier for Services performed prior to the effective date of cancellation, at the agreed upon rates.

13. **Confidential Information.** Each party may have access to confidential information, including personal information that may be subject to protection under state data security laws and other federal laws, rules and regulations, of the other during the term of this Agreement and accordingly agree to disclose such information only to its personnel who have a need to know such information in connection with the performance of Services and who are subject to non-disclosure requirements at least as restrictive as those contained in this Agreement. Each party will use confidential information of the other only in connection with the performance of Services, and will store and transmit such information in a secure location and manner. In addition, each party must provide the same care (and in no event less than reasonable care) to avoid disclosure or unauthorized use as it provides to protect its own confidential information. Expiration or termination of the Agreement does not relieve any party from its obligations to protect confidential information received during the term of the Agreement. The terms and existence of this Agreement and any Statement of Work or Purchase Order are each party's confidential information. If Supplier has access to confidential information it shall execute a separate Mutual Non-Disclosure Agreement with ESI, Supplier agrees that its use and disclosure of ESI confidential information shall be governed by, and be subject to, the terms and conditions of such Mutual Non-Disclosure Agreement.

In response to a demand from a regulatory or other governmental body, the parties may disclose confidential information to such regulatory or other governmental body as required by law. The disclosing party shall notify the other party immediately upon such request and in advance of such disclosure.

14. **Non-solicitation.** Unless otherwise agreed in writing, neither party shall hire or knowingly solicit the employment of the other's personnel during the term of this Agreement or within one (1) year of the completion of any Purchase Order hereunder. Notwithstanding the foregoing, the parties hereby acknowledge and agree that the restrictions of this section shall not apply to the hiring by either party of any individual who, not being specifically solicited or targeted, responds to a general recruitment advertisement of the other party.

15. **ESI Property.** All information, equipment, materials and data of every kind and description that Supplier receives, directly or indirectly, from ESI or from a third party on behalf of ESI is the property of ESI.

16. **Intellectual Property.**

- (a) Supplier Intellectual Property. Any and all preexisting patents, copyrights or other intellectual property owned or licensed to Supplier and utilized by Supplier in providing the Services or Goods under this Agreement shall remain the sole property of Supplier or the applicable licensor.
- (b) ESI Intellectual Property. Supplier assigns to ESI and its affiliates all materials, research, plans, specifications, drawings, works of authorship and other data and intellectual property generated, conceived or developed in connection with this Agreement (the "Developed Material") and any resulting patents, copyrights and other intellectual property rights. Works

of authorship in any form of expression, including, manuals, plans, specifications, drawings, and software developed in connection with this Agreement, are “works for hire” and belong exclusively to ESI and its affiliates. Supplier will take all reasonable actions, at its expense, necessary to transfer to ESI and its affiliates all of Supplier’s rights in and to the Developed Material. Supplier represents that it has agreements in place with its personnel sufficient to protect ESI’s rights under this paragraph.

17. **Inspection.** ESI may inspect Supplier’s performance under this Agreement from time to time. ESI’s inspection (or lack of inspection) will not constitute an acceptance of any Services or a waiver of any right or warranty or preclude ESI from rejecting any defective Services.

18. **Warranty on Services.** Supplier warrants that it will perform all Services in a workmanlike manner in accordance with good industry practices and with the degree of skill, competence and care customarily exercised by a skilled service provider under similar circumstances. The Services will also be free from defects and conform to the established specifications set forth in the Purchase Order or Statement of Work. For a period of one (1) year after ESI’s acceptance of the Services, Supplier will promptly correct defects or deficiencies in the Services at its expense after ESI’s notice to Supplier. Any defects or deficiencies that are corrected hereunder shall have a one (1) year warranty from the date of correction. If Supplier fails to promptly correct a defect or deficiency, ESI may cause the defect or deficiency to be corrected at the expense of Supplier. This provision shall not be construed as disclaiming or limiting any other express or implied warranty or guarantee made by Supplier. If a defect exists in the Services that was not and normally would not be revealed, discovered or located before the end of a warranty period by any reasonably careful inspection (hereinafter “Latent Defect”), ESI will promptly notify Supplier when such Latent Defect becomes apparent and Supplier shall correct such defects at its expense.

19. **Financial Ability, Proceedings and Obligations.** Supplier represents and warrants that it is financially capable of fulfilling all of its obligations under this Agreement, that there are no legal or administrative proceedings pending or threatened against it that could adversely affect Supplier’s performance and that the Supplier is not prohibited by any arrangements or any document or obligation from entering into or performing this Agreement. At the sole discretion of Evergy Services, Inc., Supplier may be required to provide financial assurance in the form of a surety bond, letter of credit, cash deposit, or other acceptable guarantee.

20. **No Infringement; No Conflict.** Supplier warrants that the Services will not infringe upon the rights of any third party and will not conflict with its existing obligations under other contracts.

21. **Change Orders.** Unless otherwise stated in a Purchase Order or Statement of Work, ESI may, upon written notice to Supplier, request changes in specifications, schedules, testing or any other terms contained or referenced in a Purchase Order. If such a change will increase or decrease the price of the Services, or the time required for performance of the Services, Supplier must notify ESI in writing within seven (7) days after receiving ESI’s change request. Upon receipt of such a notice from Supplier, the parties will negotiate appropriate changes to the Purchase Order. If Supplier fails to timely provide such notice, it will have waived any right to request an increase in price or the time required for performance. At ESI’s request, Supplier agrees to continue performance of Purchase Orders pending resolution of any adjustments to the price or performance date.

22. **Indemnification.**

- (a) Each party (the “Indemnifying Party”) will indemnify, hold harmless and defend the other party and its officers, directors, shareholders, agents, employees, and representatives (collectively, the “Indemnified Party”) from all claims, liabilities, fines, interest, costs, expenses and

damages (including reasonable attorneys' fees) incurred by the Indemnified Party (collectively, the "Indemnified Losses"), for any damage, injury, death, loss or destruction of any kind to persons or property, to the extent the damage, injury, death, loss or destruction arises out of or is related to the conduct, negligence, error, omission, willful misconduct, misrepresentation, breach of warranty or other breach of this Agreement on the part of the Indemnifying Party or any of its servants, representatives, agents, employees or contractors.

- (b) Supplier agrees to indemnify and defend all claims brought against ESI or ESI's customers that any of the Developed Materials or Services (or components thereof) specified in the Purchase Order, or other materials or services furnished to and used by ESI, constitutes an infringement of any patent or copyright of any country, or misappropriation of any trade secret, or constitutes a breach of any moral right, right of publicity, or intellectual property right (collectively, "Infringing Materials"). The contractual indemnification obligations contained in this Subsection (b) shall apply equally to any Infringing Materials including, but not limited to, software or firmware, which is provided with or as a component part of any Goods, Developed Materials or Services. Additionally, if ESI is prohibited from using such Infringing Materials for their intended purpose, Supplier will, at its expense: (i) procure on behalf of ESI the right to use such Infringing Materials; (ii) replace such Infringing Materials with equivalent, non-infringing materials; (iii) modify such Infringing Materials so they become non-infringing but retain their functionality; or (iv) if (i), (ii) and (iii) are not commercially reasonable, refund all compensation paid by ESI to Supplier for such Infringing Materials. The foregoing obligations are in addition to the indemnification obligations of Supplier set forth in Subsection (a) above.
- (c) Supplier will indemnify and defend ESI against Indemnified Losses arising out of claims by Supplier personnel or any government agency related to the payment of employment taxes, benefits and workers' compensation in connection with the performance of Services by such Supplier personnel.

23. **Insurance Coverages.** Supplier agrees to procure and maintain, and require the same of Supplier's subcontractors, at its own cost and expense, for the term covered by any Statement of Work or Purchase Order, insurance, as set forth below, provided by a reputable and financially responsible insurance company which shall safeguard ESI against liability for damage to property, including injuries resulting in death when Supplier is engaged in the performance of services under this Agreement. Insurers must be licensed to do business in all jurisdictions where Services are performed and have an A.M. Best's rating of A- or better; VII or other rating agency equivalent. Supplier agrees to furnish satisfactory evidence of such insurance to ESI for the following minimum insurance coverages:

- (a) **Workers Compensation Insurance.** Supplier shall maintain statutory workers compensation as required under any workers compensation or similar law in the jurisdiction where the Services are performed and employers liability insurance. Employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease. If Supplier has USL&H (on or above the water), Jones Act (seaman) or FELA (railroad) exposure, then policies addressing these exposures must be purchased. If the exposure is incidental, the Workers Compensation policy should be endorsed to include these coverages.
- (b) **General Liability Insurance.** Supplier shall maintain commercial general liability with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. The policy must cover liability arising from premises, operations, independent contractors, damage to property, products-completed operations, personal injury and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Supplier's General Liability policy should be endorsed to include a Designated Construction Project(s) General Aggregate Limit Endorsement that specifically refers to ESI's project or provide blanket language that states coverage applies to all ongoing projects of the Supplier. Completed Operations coverage is to extend for two (2) years following the last to occur of the following events: (i) the termination of this Agreement; or (ii) the termination of all outstanding Purchase Orders.

- (c) Automobile Liability Insurance. Supplier shall maintain automobile liability with a limit of not less than \$1,000,000 combined single limit. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).
- (d) Errors and Omissions Liability Insurance. IF THE SERVICES ARE CONSIDERED PROFESSIONAL SERVICES, errors and omissions liability coverage appropriate to the service should be provided. Coverage must apply to economic damages resulting from a professional error, act, or omission arising out of the scope of services defined in this contract. Coverage must be maintained in an amount of at least \$5,000,000 per occurrence and aggregate for at least two (2) years after completion. The retroactive date should be prior to commencement of work.
- (e) Excess/Umbrella Liability Insurance. Supplier shall maintain commercial excess or umbrella liability insurance excess of employers liability, general liability and automobile liability with an available limit of not less than \$5,000,000 per occurrence. The scope of coverage must be as broad or broader than the underlying coverages.
- (f) Technology. Technology errors and omissions insurance with limits of \$10,000,000 per occurrence and in the aggregate, including coverage for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render computer or information technology services and technology products. Coverage for violation of software copy must be included. Technology services should at a minimum include (1) systems analysis; (2) systems programming; (3) data processing; (4) systems integration; (5) outsourcing, including outsourcing development and design; (6) systems design, consulting, development, and modification; (7) training services relating to computer software or hardware; (8) management, repair, and maintenance of computer products, networks, and systems; (9) marketing, selling, servicing, distributing, installing, and maintaining computer hardware or software; (10) data entry, modification, verification, maintenance, storage retrieval or preparation of data output; and any other services provided by Supplier, including privacy/network security (cyber) liability coverage, providing protection against liability for (1) privacy breaches (liability arising from the loss or disclosure of confidential information no matter how it occurs); (2) system breaches; (3) denial or loss of service; (4) introduction, implantation, or spread of malicious software code; (5) unauthorized access to or use of computer systems. No exclusion/restriction for unencrypted portable devices/media may be on the policy.
- (g) Wrap-Up Provision. In lieu of the coverages to be provided by Supplier as indicated in this Article 23, Insurance Coverages, ESI may, at its option, arrange for Workers' Compensation/Employer's Liability, Commercial General Liability and/or Excess Liability insurance ("Wrap-Up Insurance") at no cost to Supplier and/or its subcontractors. Supplier and each of its subcontractors shall furnish the necessary authorization for the ESI insurer or its representative to obtain loss experience data. ESI and Supplier expressly agree that the Wrap-Up Insurance policies noted above are intended to be the primary means of protection for Supplier and/or its subcontractors for on-site exposures only, and will insure on-site Supplier and/or its subcontractor employee injury/death claims covered by Worker's Compensation and

Employer's Liability insurance. In the event ESI, in its sole discretion, elects to arrange insurance for Supplier and/or its subcontractors, ESI shall notify Supplier and/or its subcontractors in writing and Supplier and/or its subcontractor's compensation under this agreement shall be diminished by an amount equal to the Supplier's full cost of insurance and risk of loss. Further, Supplier and/or its subcontractors agree to abide by the requirements set forth in ESI's Wrap-Up Insurance Manual ("Wrap-Up Manual"). The Wrap-Up Manual shall summarize all Wrap-Up Insurance provided by ESI and contractor requirements associated with ESI providing the Wrap-Up Insurance.

The furnishing of said insurance by ESI shall in no way relieve, or limit, or be construed to relieve or limit Supplier and/or its subcontractors of any tier of any responsibility or obligation whatsoever otherwise imposed by the Agreement.

If providing Goods to ESI, Supplier and/or its subcontractor shall provide replacement cost coverage under any combination of inland marine/ocean cargo/installation floater insurance during the transportation, loading, unloading and installation until ESI's acceptance.

ESI, its parent, affiliates, sister entities, officers, directors, employees, agents, subsidiaries, joint owners and assigns must be included as an additional insured with respect to the Supplier's acts, omissions, services, products or operations, whether in whole or in part, under the General Liability (including products/completed operations), Automobile Liability and Excess/Umbrella Liability policies provided to ESI.

Supplier's insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to ESI. The policies will be so endorsed to be primary with respect to this contract. General Liability and Umbrella/Excess Liability policies must not contain any Cross Liability Exclusion Endorsements. Any deductibles or self-insured retentions carried by Supplier are the sole responsibility of Supplier and must be declared on certificates of insurance. The primary and umbrella excess policies can be combined to meet required policy limits. Supplier's (or Supplier's subcontractor's) failure to comply with the insurance requirements shall not limit Supplier's liability or impact their indemnification obligations.

Except for damages caused by the negligence of ESI, Supplier shall retain the risk of loss for any damage whatsoever to their own equipment, stationary or mobile, tools, supplies, materials, automobiles and vehicles, highway or otherwise, cranes and hoists or any other property owned or leased, including employee tools, which will not be incorporated into the physical construction. If separate insurance is maintained for any property described in this section, it shall contain a waiver of subrogation on the part of the insurance company in favor of ESI. If Supplier or Supplier's subcontractors choose to self-insure any of the property described under this section, ESI shall be held harmless for any loss or damage to the property while on site.

24. **Waiver of Subrogation.** To the extent damages are covered by the insurance set forth in Section 23 above, Supplier waives and shall require waivers of all rights of subrogation against ESI and its agents, officers, directors and employees for the recovery of damages.

25. **Evidence of Insurance.** Prior to the provision of Goods or Services, or upon request, Supplier shall furnish ESI with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein. ESI's failure to review, or Suppliers failure to provide, accurate evidence of insurance shall not be a waiver of Supplier's obligation to comply with the requirements of these sections.

Supplier shall provide thirty (30) days written notice to ESI in the event of cancellation or non-renewal of the policies.

26. **Right to Audit.** Supplier shall establish and maintain a reasonable accounting system that enables ESI to readily identify Supplier's assets, expenses, costs of goods, and use of funds. ESI, and its authorized representatives, shall have the right to audit, examine, and to make copies of, or extracts from, all financials, books, and records (in whatever form they may be kept, whether written, electronic or other and including the verification of information and amounts through interviews and written confirmations) relating or pertaining to this Agreement (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of the Supplier, including, but not limited to those kept by the Supplier, its employees, agents, assigns, successors and subcontractors. ESI further reserves the right to review all files of any subcontractor employed by Supplier to provide services or commodities under this Agreement where payments by ESI are based on records of time, salaries, materials or actual expenses.

ESI or its authorized representatives will have the right to audit Supplier's performance including compliance with contract requirements for deliverables, compliance with approved plans and specifications, compliance with ESI's business ethics expectations.

Supplier shall maintain all such books and records, together with such supporting or underlying documents and materials for the duration of, and for at least five (5) years following, the completion of this Agreement, including any Purchase Order(s) and/or Statement(s) of Work, and all renewals thereof. All financial information, books, and records, together with the supporting or underlying documents and materials shall be made available, upon reasonable request, to ESI, through its employees, agents, representatives, contractors or other designees. If an audit inspection or examination confirms overpricing or overcharges (of any nature) by the Supplier to ESI, Supplier will pay any retroactive adjustments in full within thirty (30) days of notice and substantiation of such inaccuracy. Supplier shall, without charge, provide reasonable cooperation to ESI pursuant to any examination or audit hereunder.

27. **Removal of Personnel.** ESI may require Supplier to remove any Supplier personnel from providing Services to ESI for any lawful reason. If ESI issues a notice of removal within fifteen (15) days of the date the Supplier personnel to be removed began providing Services to ESI, ESI is not obligated to pay for Services provided by the removed Supplier personnel. ESI is not obligated to pay for Services provided by the removed Supplier personnel following ESI's notice of removal to Supplier.

28. **Diverse Supplier Participation; Reporting.** ESI is a strong supporter of the development of diverse businesses and sets utilization goals to optimize the use of certified diverse businesses. "Diverse Suppliers" shall include businesses in the following categories: Small Business, Minority-owned Business Enterprise, Woman-owned Business Enterprise, Disabled Business Enterprise, Veteran Owned Business Enterprise, Disabled Veteran Owned Business Enterprise, Service Disabled Veteran Business Enterprise, HUBZone Small Business, 8(a) and Small Disadvantaged Business.

When utilizing subcontractors, Supplier shall proactively pursue small/diverse supplier participation. ESI has an annual corporate goal to achieve a percentage of spend with small/diverse participation. Supplier is strongly encouraged to strive to achieve a goal of second tier spend with Diverse Suppliers within each 12-month period of the Agreement term per contract and total spend. Upon a minimum of a five (5) days' notice, ESI shall have the right to inspect all Supplier records relating to its attempts to achieve this goal. If Supplier is planning to utilize subcontractors, and the contract equals or exceeds \$700,000 for goods and services (\$1.5 million for construction projects), respondent shall submit a detailed small business subcontracting plan addressing how diverse supplier participation will be achieved.

For further information on ESI's Diversity program, 2nd tier form, and an example of a Small Business Subcontracting Plan template, please go to:

<http://www.kcpl.com/about-kcpl/doing-business-with-kcpl/supplier-diversity>

ESI requires that Supplier report direct spend with Diverse Suppliers and other reportable category spend attributable to Services and Goods supplied under this Agreement. Specifically, the report categories shall include all qualified business categories as listed in the preceding paragraph. This reporting should be submitted in accordance with directions from ESI and on the form provided by ESI. This reporting shall separate each of the qualified business categories listed above and include all categories the Supplier corresponds to. For example, if a Supplier is both women and veteran owned, the reporting shall include the same spend in each category.

If assistance is needed in identifying certified Diverse Supplier firms, please contact:

Supplier Diversity Department

Phone: 800-880-1952

Email: suppdiv@kcpl.com

29. **Background Checks.** Supplier agrees to conduct pre-employment background checks going back a minimum of seven (7) years on each of Supplier's employees, agents, representatives and contractors ("Supplier Personnel") that will perform Services on ESI's property, ESI's "rights of way", the property of ESI's customers, accesses ESI's confidential personal information or any aspect of ESI's computer systems. Supplier acknowledges and agrees that only those persons who have successfully passed these background checks will perform such Services.

At a minimum, Supplier will confirm and verify each Supplier Personnel's identity (social security number verification), authorization to work in the United States using e-Verify, seven (7) year federal, state, and multi-county criminal conviction check, terrorist list (OFAC) search, driver's license history and ten (10) panel drug screening. Supplier shall disclose to ESI the background check process it uses, and the sources from which information is obtained, including processes and sources utilized for employees providing services in foreign countries. In addition, for any Supplier Personnel who will have access to ESI's computer systems or areas critical to the support of the electricity infrastructure, the Supplier will submit either a redacted copy of the background screen or a tear off sheet from the background screen before any such access will be granted by ESI.

Supplier shall disclose to ESI any and all foreign offices and personnel who will be performing any services under this Agreement.

Background checks must be renewed every seven (7) years as long as the Supplier Personnel is performing service on ESI's property, ESI's "rights of way" or any aspect of ESI's computer systems.

Supplier is responsible for all costs related to such background checks and agrees to maintain accurate records pertaining to such background checks for a minimum of five (5) years after termination of this Agreement, unless limited by law.

30. **Independent Contractor.** Supplier agrees and represents that it is an independent contractor and its personnel are not employees or agents of ESI for federal tax purposes or any other purposes whatsoever, and are not entitled to any ESI employee benefits. Supplier assumes sole and full responsibility for the acts of its employees and agents. Supplier, and not ESI, is solely responsible for the compensation of Supplier employees assigned to perform Services hereunder, and payment of worker's compensation, disability, and

other similar benefits, unemployment and other similar insurance, and for withholding income and other taxes and social security. Supplier further agrees to defend and save ESI harmless against any claim from an employee or subcontractor of Supplier with respect to the subject matter of this Section.

31. **Notices.** All notices under this Agreement must be in writing, identified by the Agreement number set forth above and, if applicable the relevant Purchase Order number and sent by certified mail, return receipt requested, by overnight mail or by hand delivery to the following:

Evergy Services, Inc.
ATTN: Procurement Department
1200 Main Street
Kansas City, MO 64105
Procurement@kcpl.com

Supplier: (Supplier Name)
ATTN: (Supplier Contact)
(Supplier Address)

or to such other addresses as either party may notify the other of in writing.

32. **Assignment; Subcontracting.** This Agreement is personal to Supplier. Supplier may not assign this Agreement or any of its rights, or delegate or subcontract any of its obligations under this Agreement, without the prior written consent of ESI. Supplier will ensure that its affiliates, contractors, and subcontractors performing Services comply with the terms and provisions of this Agreement while such persons perform the Services. ESI may assign this Agreement without consent of Supplier.

33. **Liens.** Supplier shall not permit a lien to be placed on any ESI property by Supplier's subcontractors, agents, employees, or suppliers. Should ESI receive notice of an intent to file a lien from any of Supplier's agents, employees, or suppliers, ESI will notify Supplier. Upon receipt of notice from ESI of the intent of one of Supplier's agents, employees, or suppliers to file a lien, Supplier shall immediately take any and all steps necessary, including paying an amount in dispute to the party intending to file such lien, to prevent the filing of such lien. If Supplier fails to prevent the filing of such lien, Supplier shall be responsible and liable for and shall indemnify ESI for all of ESI's costs, expenses (including attorneys' fees), liabilities, damages, fees, penalties, judgments and settlement costs arising either directly or indirectly from the placement of such lien.

34. **Safety.** All Suppliers performing work for ESI are expected to maintain safety as the highest priority. Suppliers that perform or provide field service work activities at one of the ESI facilities may also be referred to in this section as "Contractors". ESI considers that all Suppliers and Contractors have the responsibility and general supervisory authority over their worksite, including the power to correct safety and health violations. In addition, Suppliers and Contractors are responsible for the safe performance of work and for ensuring the safety performance of its employees, agents and subcontractors. ESI reserves the right to interrupt or suspend the work if, in the sole reasonable judgment of ESI, its parent company, or any affiliated company, the work is being performed in a manner which endangers the safety of any individual. In the event that work is suspended for this reason, Supplier/Contractor agrees to promptly remedy the problems and work methods which occasioned the work suspension. If Supplier fails to promptly remedy the problems and work methods, ESI, its parent company, or any affiliated company, as applicable, may at its sole discretion, terminate the Purchase Order and cause the work to be completed by ESI, its parent company, or any affiliated company, or another contractor. In the event that this cover incurs costs in excess of those shown on the Purchase Order, Supplier/Contractor shall promptly reimburse ESI, its parent company or any affiliated company, as applicable, for the overage. Supplier/Contractor shall be paid for its actual out-of-pocket costs incurred through the time of termination.

ISN Partnership

Evergy has established a business relationship with ISN (www.isn.com) to further enhance our contractor management program. ISNetworld is serving as Evergy's primary contractor information management system. Contractors providing field service activities at an Evergy worksite are required to become subscribers to ISNetworld. Pre-Qualification through ISN is dependent upon the scope of work and risk factors.

If your company is a current subscriber to ISNetworld, there is no additional fee; however, please ensure your company has completed the requirements specific to Evergy. If your company is new to ISNetworld, there is an annual fee for this service. Evergy believes the benefits to both parties will far exceed any associated costs.

In order to be considered by Evergy during the contractor selection process, your company's subscription must be in place and all required data must be posted by [DATE]. To determine if your company must qualify and for further details about ISNetworld, please contact the ISN Customer Service Team at (800) 976-1303 or visit their website at www.isn.com.

Regardless of whether your company must qualify through the ISNetworld network, companies are still subject to the Legacy KCP&L and Legacy Westar Work Rules which may be amended from time to time without prior notice.

Work Rules & Orientations – Legacy KCP&L Generating Station and Delivery Division Locations

If field service work is to be performed at any of the legacy KCP&L generating station locations, all work is to be performed in accordance with the approved "Contractor Safety Requirements" document, are subject to the Contractor Safety Requirements Program, and may be subject to the annual orientation process. The "Contractor Safety Requirements" may be amended from time to time without prior notice.

If field service work is to be performed for the legacy KCP&L legacy Delivery Divisions, all work must meet or exceed the legacy KCP&L "Delivery Safety Rules & Procedures". All field service work activities may also require annual orientation. Legacy KCP&L "Delivery Safety Rules & Procedures" may be amended from time to time without prior notice.

If field service work is to be performed for any other legacy KCP&L locations not defined here, the Evergy Site Project Manager will give direction on safety work rules and orientation.

Suppliers and Contractors shall be responsible for compliance with all current requirements as defined in each relevant Statement of Work ("SOW") and/or Purchase Order.

Work Rules & Orientations – Legacy Westar Locations

If Service work is to be performed at any of the legacy Westar locations, all work is to be performed in accordance with the "Westar Safety Manual" and may be subject to the PowerSafe orientation program. The "Westar Safety Manual" may be amended from time to time without prior notice.

Further information regarding ESI's Contractor Safety Programs and documentation requirements may also be specified in the relevant Purchase Order(s) and/or Statement(s) of Work.

35. **Work Site Conditions.** If work is to be performed at any of the generating station locations, all work is to be performed in accordance with the approved "Work Site Conditions" applicable to all Suppliers and their subcontractors entering the property of ESI, its parent company or any affiliated company for the

purpose of delivering services. The “Work Site Conditions” may be amended from time to time without prior notice.

36. **Bi-lingual.** Due to the high degree of safety risks inherent in working at or around electric power generation, distribution and transmission sites, it is necessary to require that Supplier’s employees working in safety-sensitive jobs or sites must be able to, directly or through a bilingual supervisor or other employee of the Supplier:

- i. Understand communications from ESI personnel given in English;
- ii. Receive information from or contribute information to ESI personnel in English; and
- iii. Be informed of and be subject to safety rules given in English.

If an individual Supplier employee is assigned to work in a safety-sensitive job or ESI site, and he or she is not English-proficient, then such worker will be permitted to perform services under this Agreement only if a bi-lingual supervisor or other employee of the Supplier is also working within close proximity, e.g., within line of sight and hearing distance, of the non-English-proficient Supplier employee, and will be readily available to translate for and communicate with the non-English-proficient Supplier employee.

Nothing in this provision is intended to prohibit any personnel from freely communicating with each other in any non-English language.

37. **Governing Law; Jurisdiction; Waiver of Jury Trial.** In the event of a dispute which arises out of or relates to this Agreement, or the breach thereof, the parties agree first to try in good faith to settle the dispute by negotiations between representatives of Supplier and ESI who have authority to settle the dispute before resorting to litigation. This Agreement will be governed by, and construed in accordance with, the laws of the State of Missouri, without regard to conflicts of law principles. Supplier consents and submits to the personal jurisdiction and venue of the state and federal courts sitting in the State of Missouri and acknowledges that the foregoing covenant is a material inducement for ESI to enter into this Agreement. **EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL IN ANY COURT ACTION ARISING BETWEEN THE PARTIES, WHETHER UNDER THIS AGREEMENT OR OTHERWISE RELATED TO THE SERVICES, AND WHETHER MADE BY CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR OTHERWISE.**

38. **Compliance with Laws; Permits and Licenses.** Supplier and any subcontractors or affiliates shall comply with all applicable laws and regulations and shall secure any and all necessary governmental authorizations and permits, and shall upon request furnish satisfactory proof of compliance with any law or regulation. Supplier and subcontractors must also comply with the provisions of ESI’s Federal Contracting Requirements attached hereto as Exhibit D.

39. **Cybersecurity.** If Services or Goods provided by Supplier will connect to any network or individual electronic device of ESI or its affiliates, upgradable software is used in conjunction with the acquisition of Services or Goods provided by Supplier, or Supplier is in possession of, managing, accessing, or hosting any data of ESI or its affiliates, then Supplier is required to comply with the Cybersecurity Requirements set forth in Exhibit E. “Upgradable software” includes, but is not limited to, operating system software, application software and programmable logic controller (PLC)-type device software.

40. **Damages; Remedies.** Neither party will be directly liable to the other party for indirect, incidental or consequential damages. A breach of any covenants regarding confidentiality or non-solicitation may cause irreparable injury to the non-breaching party that is not adequately compensable in monetary damages. Accordingly, each party may seek injunctive relief for a breach or threatened breach of such covenants, in addition to any other remedies at law or in equity.

41. **Force Majeure.** Neither ESI nor Supplier will be liable or responsible to the other for any delay or failure to perform any of its obligations under this Agreement (other than those contained in the confidentiality and non-solicitation Sections of this Agreement) due to acts of God or of the public enemy, riots, wars or hostilities, fires, floods, storms or earthquakes. If a force majeure event occurs, the party claiming the force majeure will promptly give notice to the other party (stating with reasonable particularity the event of force majeure claimed) and use its commercially reasonable efforts to perform its obligations under this Agreement despite the force majeure event. If Supplier, despite the exercise of due diligence, is nevertheless unable to overcome an event of force majeure within a reasonable time under the circumstances but in no event more than thirty (30) days, ESI may terminate any affected Statements of Work or Purchase Orders without liability upon written notice to Supplier.

42. **Invalid Provisions.** If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions shall continue unimpaired.

43. **Advertising and Publicity.** Neither party will issue any news release, announcement, denial, or confirmation of work performed under this Agreement or advertise the relationship between the parties without the other party's prior written approval. ESI may, in its sole discretion, withhold consent to any publicity. In addition, nothing in this Agreement grants Supplier the right to use any trademarks, trade names, logos or other intellectual property of ESI or its affiliates.

44. **Miscellaneous.** The waiver of a breach of any term or condition of this Agreement will not constitute the waiver of any other breach of the same term or condition or any other term or condition. A waiver must be in writing and signed by the party against whom the waiver is sought. The Sections regarding confidentiality, non-solicitation, ESI property, assignment of intellectual property, indemnification, insurance, damages and remedies, this Section, and any other provisions of this Agreement that, by their nature, are intended to survive, will survive any termination or expiration of this Agreement or any cancellation of any Statement of Work or Purchase Order. This Agreement may be executed in counterparts, each of which will be an original and both of which, when taken together, will constitute one and the same instrument. This Agreement, together with all Statements of Work executed by the parties from time to time and Purchase Orders issued by ESI, constitutes the entire agreement of the parties with regard to the subject matter of this Agreement and may not be amended except in a writing signed by both parties. Headings are for reference only and are not intended to affect the meaning of any terms. This Agreement will not be construed against either party due to authorship.

45. **Exhibits.** The following exhibits are incorporated into this Agreement by this reference:

Exhibit A	Additional Terms Applicable to the Purchase of Goods
Exhibit B	Form of Purchase Order
Exhibit C	Form of Statement of Work
Exhibit D	Federal Contracting Requirements
Exhibit E	Cybersecurity Requirements
Exhibit F	Confidential Information Requirements

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed, effective as of the day and year first above written.

Signed:

**AUTHORIZED REPRESENTATIVE FOR
EVERGY SERVICES, INC.**

**AUTHORIZED REPRESENTATIVE FOR
(SUPPLIER NAME)**

**1200 Main Street
Kansas City, MO 64105**

(Supplier Address)

(signature)

(signature)

(print name)

(print name)

(title)

(title)

(date)

(date)

ADDITIONAL TERMS APPLICABLE TO THE PURCHASE OF GOODS

1. **Application.** The Provisions of this Exhibit are applicable only if Goods (including, but not limited to, materials and equipment) are being supplied under the Agreement.
2. **Goods.** Supplier agrees to sell, deliver and install all Goods described in any Purchase Order to this Agreement.
3. **Price.** The price for the Goods is as stated in any Purchase Order hereto and shall be paid to Supplier pursuant to the terms and conditions of the Agreement.
4. **Delivery and Installation.** Time is of the essence to this Agreement. The Goods shall be delivered, installed and in good working order on or before the installation date specified in the Purchase Order. The Acceptance by ESI of Goods shall be pursuant to the Section regarding Acceptance in the Agreement. Notwithstanding the foregoing, if ESI returns Goods, ESI will not be liable for restocking fees unless specifically agreed to in a Purchase Order. ESI agrees to provide a suitable environment for the Goods and to provide any necessary interconnections with other equipment or systems. All deliveries of Goods to ESI's premises or work site shall be subject to ESI's security and safety regulations.
5. **Risk of Loss.** The risk of loss from any casualty to the Goods, regardless of the cause, shall be on the Supplier until the Goods have been accepted by ESI per the acceptance terms of this Agreement.
6. **Title.** Supplier warrants that the Goods at the time of delivery shall be free from any security interest or other lien or encumbrance, and that Supplier has complete and good title to the Goods.
7. **Warranty on Goods and Materials.** Supplier warrants that the Goods and any materials will be (a) newly manufactured, unless expressly agreed to otherwise in a writing signed by both parties, (b) conform to the specifications in the Purchase Order or Statement of Work, (c) be free from defects and all liens, security interests, claims and encumbrances and (d) be merchantable and fit for their intended purpose. For a period of one (1) year after ESI's acceptance of the Goods or materials, Supplier will repair or replace any defective Goods or materials at its expense after ESI's notice to Supplier. Any Goods or materials that are repaired or replaced hereunder shall have a one (1) year warranty from the date of repair or replacement. If Supplier fails to promptly repair or replace a defect, ESI may cause the defect to be corrected at the expense of Supplier. If Supplier is not the manufacturer of the Goods, Supplier will pass through to ESI any additional manufacturer warranties, and at the request of ESI, make warranty claims against the manufacturer on ESI's behalf. This provision shall not be construed as disclaiming or limiting any other express or implied warranty or guarantee made by Supplier.

If a defect exists in the Goods or materials that was not and normally would not be revealed, discovered or located before the end of a warranty period by any reasonably careful inspection (hereinafter "Latent Defect"), ESI will promptly notify Supplier when such Latent Defect becomes apparent and Supplier shall repair or replace the Goods or materials at its expense.
8. **Freight.** Unless otherwise provided in a Purchase Order, the delivery of all the Goods shall be as specified by ESI, FOB destination, freight collect.
9. **Invoices for Goods and Related Documents.** Send all bills of lading and shipping notices to the ESI Procurement Department. Send original invoices to ESI Accounts Payable. All invoices should indicate the date the Goods were shipped and the shipping point and contain a statement indicating compliance with the Fair Labor Standards Act of 1938 as amended. Packing slips must be included in all

shipments and the last shipment must state "Order Completed." Packing slips must include the Purchase Order number, the ESI Item ID and the Manufacturer/Catalog Number. Packaging must be limited to the material shown on the Purchase Order. Supplier must furnish Material Safety Data Sheets for qualifying material.

EXHIBIT

Purchase Order

DISPATCHED

Company

Company Name
 Address Line 1
 Kansas City, Missouri 64141-9679

 Vendor: 0000123456
 USA COMPANY
 11111 NORTH ST.
 USA, USA 22222
 USA
 Fax: 333/333-3333

Purchase Order	Date	Revision	Page
XXXX0000XXXXXX	00/00/00		1
Purchasing Contact		Requestor	
Doe, Jane		John Smith	
111/111-1111		222/222-2222	
111/111-2222 Fax			
Payment Terms		Freight Terms	
Net 30		F.O.B. Dest., Frt. Coll.	

Ship To:
 USA

Purchase Order date determines applicable Terms and Conditions;
 see Terms and Conditions at <https://www.kcpl.com/doing-business-with-kcpl/suppliers>.

Tax Exempt? N Tax Exempt ID:

Line-Sch Item	Quantity	UOM	Unit Price	Ext Price	Price Type	Delivery Date
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IF THE FOB TERMS SET FORTH IN THIS PURCHASE ORDER SPECIFY FREIGHT COLLECT, SHIPMENTS MUST BE MADE IN ACCORDANCE WITH ESI ROUTING INSTRUCTIONS. DO NOT SHIP C.O.D. PLEASE PROVIDE THE ESI PURCHASE ORDER NUMBER TO THE CARRIER AND INSTRUCT THEM TO INCLUDE THE PURCHASE ORDER NUMBER ON ALL SHIPPING DOCUMENTS.

1-1	Requisition	XX/XX/XX	1	EA	0.00	0.00
					Schedule Total	<u>0.00</u>
					Item ID	Item Total <u>0.00</u>
					Total PO Amount	0.00

**STATEMENT OF WORK
PURSUANT TO
MASTER SERVICE AGREEMENT
BY AND BETWEEN
EVERGY SERVICES, INC.
AND
[SUPPLIER]**

THIS STATEMENT OF WORK NUMBER [], dated [], 20[], by and between Evergy Services, Inc. (“ESI”) and [SUPPLIER NAME] (“Supplier”) is subject to the terms and provisions of, and is made a part of, that certain MASTER SERVICE AGREEMENT Number [] (the “Agreement”), effective [], 20[], between ESI and Supplier.

The parties agree as follows:

A. Scope of Services

Supplier will perform [If general: Include general description of work and reference to any specifications/drawings related to the performance of Supplier’s Scope]. OR [If project-specific: Include detailed description of project and reference all documents/specs/schedules/drawings related to the project].

B. Compensation [if Project-specific] OR Pricing [if multiple orders for services will be placed under fixed pricing]

The ESI affiliate identified in any Purchase Order will pay Supplier []. OR

Pricing per attached Exhibit A.

C. Delivery or Work Schedule

The schedule shall be as follows: []

D. Delivery or Work Location

The Services will be performed at []

E. Invoicing Instructions

Supplier will invoice ESI affiliates separately, as indicated on any Purchase Order referencing this Statement of Work. Supplier will submit invoices in accordance with the Agreement, unless other terms are specifically set forth here:

Invoices will reference the applicable Purchase Order number and be distributed as indicated in such Purchase Order.

F. Term of Statement of Work

The term of this Statement of Work begins on [] and ends on []

G. Project Managers

The Project Managers for the Services and Goods related to this Statement of Work are as follows:

ESI:	ESI Project Manager Name [Address] [Email Address]
Supplier:	[Supplier] [Supplier Contact] [Address] [Email Address]

H. Legal Terms and Conditions

The legal terms and conditions governing this Statement of Work are contained in the Agreement between the parties. In order to be effective, any modifications, additions or deletions to the legal terms and conditions applicable to this Statement of Work must be specifically set forth here:

None.

In the event of any conflict between the legal terms and conditions set forth here and the legal terms and conditions contained in the Agreement, the legal terms and conditions set forth here will control only for work performed under this Statement of Work.

I. Entire Agreement

This Statement of Work, any Purchase Order issued by ESI referencing this Statement of Work and the Agreement constitute the entire agreement between ESI and Supplier with respect to the subject matter of this Statement of Work, and this Statement of Work may not be amended or modified except by a written document signed by both parties and made in accordance with the Agreement.

SIGNED:

**Authorized Representative for
EVERGY SERVICES, INC.**

<EXAMPLE – DO NOT SIGN HERE>
(signature)

(print name)

(title)

(date)

Authorized Representative for

<EXAMPLE – DO NOT SIGN HERE>
(signature)

(print name)

(title)

(date)

FEDERAL CONTRACTING REQUIREMENTS

52.252-2 Clauses Incorporated by Reference (FEB 1998)

This Agreement incorporates one or more of the following clauses by reference, which shall have the same force and effect as if they were given in full text. Upon request, ESI will make their full text available. Also, the full text of a clause may be accessed electronically at the following web address: <http://acquisition.gov/comp/far/index.html>

<u>FAR Reference</u>	<u>Prescribed In</u>	<u>Federal Acquisition Regulation</u>
1. Clauses applicable to this Agreement or any Statement of Work:		
52.202-1	2.201	Definitions (NOV 2013)
52.212-5	13.301(b)(4)	Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items (JAN 2017)
52.222-21	22.810(a)(1)	Prohibition of Segregated Facilities (APR 2015)
52.222-26	22.810(e)	Equal Opportunity (SEPT 2016)
52.222-50	22.1705(a)(1)	Combatting Trafficking in Persons (MAR 2015)
52.244-6	44.403	Subcontracts for Commercial Items (JAN 2015)
2. Clauses applicable to this Agreement or any Statement of Work that Exceeds \$15,000:		
52.222-36	22.1408(a)	Equal Opportunity for Workers with Disabilities (JUL 2014)
3. Clauses applicable to this Agreement or any Statement of Work that Exceeds \$35,000:		
52.209-6	9.409	Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (OCT 2015)
4. Clauses applicable to this Agreement or any Statement of Work that Exceeds \$150,000:		
52.203-6	3.503-2	Restrictions on Subcontractor Sales to the Government (SEPT 2006)
52.203-7	3.502-3	Anti-Kickback Procedures (MAY 2014)
52.203-12	3.808(b)	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)
52.219-8	19.708(a)	Utilization of Small Business Concerns (NOV 2016)
52.222-35	22.1310(a)(1)	Equal Opportunity for Veterans (OCT 2015)
52.222-37	22.1310(b)	Employment Reports on Veterans (FEB 2016)
5. Clauses applicable to this Agreement or any Statement of Work that Equals or Exceeds \$700,000 (or \$1.5 million for construction of any public facility):		
52.219-9	19.708(b)	Small Business Subcontracting Plan (JAN 2017)

FERC

ESI requires compliance with the Federal Energy Regulatory Commission's (FERC's) Standards of Conduct rules and regulations.

Veterans and Individuals with Disabilities

The parties hereby incorporate the requirements of 41 CFR § 60-1.4(a)(7) and 29 CFR Part 471, Appendix A to Subpart A, if applicable. If applicable, **this Supplier and any subcontractors shall also abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.**

Repeal of Clauses During Term of Contract

If, during the term of this Agreement, any of the clauses contained in this Exhibit are repealed, revoked, or dissolved by the Government, then such clauses shall no longer be part of this Agreement as of the date of such repeal, revocation, or dissolution. The elimination of these clauses by reason of such repeal, revocation, or dissolution shall not affect the continuing validity and effectiveness of the remainder of this Agreement or other clauses referenced in this Agreement. The parties' conduct thereafter shall be modified accordingly and reflect the repeal, revocation, or dissolution as related to their respective rights and obligations hereunder.

In the event that the Supplier does not comply with any of the requirements set forth in this Exhibit, this Agreement or Statement of Work may be cancelled, terminated, or suspended in whole or in part.

CYBERSECURITY REQUIREMENTS

For the purposes of this Agreement, the North American Electric Corporation's Critical Infrastructure Protection (NERC CIP) requirements may impose mandatory language for some clauses. Notation is made where this is applicable.

Where notification is required within the terms of this Exhibit, such notification shall be made by telephone to the legal abbreviation Cyberthreat Operations Center (CTOC) at 816-701-0600. The CTOC is available 24 x 7, 365 days a year.

1. Supplier represents and warrants that:
 - i. it continually adapts its software system development life cycle to adapt to emerging threats and vulnerabilities;
 - ii. the SANS Top 25 Most Dangerous Programming Errors and/or the Open Web Application Security Project (OWASP) Top Ten identified vulnerabilities are integrated into its system development life cycle for software, system or Services provided to ESI or its affiliates;
 - iii. the required third-party software and/or operating system security vulnerabilities are remediated prior to delivery of any software, systems, or services;
 - iv. a security code review and/or or automated application security scan of Products is performed and all identified security vulnerabilities are remediated prior implementation in the applicable environment; and
 - v. any security vulnerabilities unable to be remediated must be mutually agreed and approved.
 - vi. neither the system, software nor Services contain any back door, drop dead device, time bomb, Trojan horse, virus, or worm or any other code designed or intended to have, or capable of performing, any of the following functions:
 1. (i) disrupting, disabling, harming or otherwise impeding in any manner the operation of, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed; or
 2. (ii) damaging or destroying any data or file without the users' consent.
 - vii. Supplier will provide capability to verify the identity of the software source for on premise software downloaded from Supplier. This term must be present for any Products or Services in scope for NERC CIP.
 - viii. Supplier will provide the capability to verify the integrity of the software obtained for software installed on premise. This term must be present for any Products or Services in scope for NERC CIP.
 - ix. Supplier will provide security patch information sufficient to evaluate applicability to software or systems. This term must be present for any Product or Services in scope for NERC CIP.
2. During the term of the parties' Agreement, if either party becomes aware of any vulnerabilities of the software, system, or Services, then such party shall promptly notify the other party. If such a

vulnerability is discovered and Supplier is notified of such discovery, then Supplier will prepare and present a vulnerability assessment to ESI within three (3) business days, without charge to ESI. Depending upon the results of the vulnerability assessment and the severity of the vulnerability, the parties shall work together on a reasonably acceptable remediation plan. Supplier will remediate any such discovered code vulnerabilities, including at a minimum, the SANS Top 25, the OWASP Top Ten, or a vulnerability confirmed by the United States Computer Emergency Readiness Team (US-CERT) according to the agreed upon remediation plan. This term must be present for any Products or Services in scope for NERC CIP.

3. Supplier represents and warrants that the software, system or Services will not limit ESI's ability to apply security-related patches, configuration changes, and upgrades to ESI computers hosting the software, system or Services. Patches, configuration changes, and updates to anti-malware Products include, but are not limited to, protection against any known or unknown malicious code and/or vulnerable security configurations.

Supplier Access to ESI Systems.

4. No access shall be given to Supplier except for that provided for through the parties' Agreement.

5. Supplier agrees to abide by applicable ESI's information policies while connected to ESI systems. Applicable policies are to be provided by ESI upon request. This term must be present for any Products or Services in scope for NERC CIP.

A. Remote Access.

i. All access will use a virtualized solution that is mutually agreed upon by both parties. If the solution is a Virtual Private Network (VPN), it shall not allow split tunneling.

ii. Supplier will only be granted access to the specific devices hosting its Products, and Supplier agrees to access only those specific devices.

iii. Level of access will be minimized based on required functions defined by the Agreement.

iv. Supplier will notify ESI immediately when remote access should no longer be granted to Supplier representatives. This term must be present for any Products or Services in scope for NERC CIP.

v. All requests for administrative access by Supplier must be mutually agreed upon and approved. If granted, rights will not extend beyond the specific system hosts applicable to the Agreement.

vi. Supplier will ensure that computers used at the remote end of any remote connection will have the latest available security patches applied to the operating system, browser, and/or application when accessing ESI's network and systems.

vii. Supplier will ensure that computers used at the remote end of any remote connection will have current anti-malware/virus software actively protecting the remote environment. Anti-malware/virus solution used by the Supplier must be a commercially-purchased Product.

B. Onsite Access.

i. ESI will assign a unique set of credentials to each individual employed by Supplier

requiring access to an ESI system.

ii. Supplier will forbid its employees from sharing any ESI login credentials.

iii. Supplier shall notify ESI within two (2) business days when there is any change in employment or position status of any of its ESI-credentialed staff performing services under the Agreement.

iv. Supplier will notify ESI immediately when onsite access should no longer be granted to Supplier representatives. This term must be present for any Products or Services in scope for NERC CIP.

v. If Supplier support requires the use of equipment not maintained by ESI, it will ensure that such equipment will adhere to the following standards before connecting to ESI systems:

- a. Any computer system shall have the latest available critical security patches applied to the operating system, browser, and/or application.
- b. The computer shall have current anti-malware/virus software actively protecting the remote environment. Anti-malware/virus solution used by the Supplier must be a commercially-purchased Product.
- c. The Supplier agrees to allow ESI to perform any security-related scans deemed prudent by ESI before or while the computer is connected to ESI's network.

Data Protection.

6. Any transfer of ESI data outside of ESI systems shall include agreed upon security mechanisms, and at a minimum shall include encryption and authentication.

7. Supplier will not transfer data via removable media without authorization by a ESI member of Security management and not before a manual anti-virus scan is performed on the media. No data file will be transferred into ESI's network without being scanned for malicious code first. Any data that must be moved into or out of ESI's computing environment will be done via a secure file copy agreed to by ESI.

Security Incident.

8. For purposes of this Agreement:

“Company Data” means any and all non-public data originated by ESI including, but not limited to, data related to its finances, taxes, employees, customers, suppliers, shareholders, and business operations.

“Security Incident” means (i) any unauthorized use or disclosure of Company Data by Supplier or any of its affiliates or subcontractors; (ii) any unauthorized use or disclosure of Supplier's environment, Product or Service provided to ESI; and (iii) any unauthorized use or disclosure of any third party development environment, Product or Services provided to ESI, and (iv) any reasonable belief that an unauthorized individual has accessed Company Data.

9. Supplier shall report, either orally or in writing, any Security Incident to ESI. Supplier shall make the report to ESI immediately upon discovery, but in no event more than two (2) business days after Supplier reasonably believes there has been or will be such Security Incident. Supplier's report shall identify: (i) the

nature of the unauthorized use or disclosure; (ii) the Company Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what Supplier has done or shall do to mitigate any Security Incident; and (v) what corrective action Supplier has taken or shall take to prevent future similar Security Incident. Supplier shall provide such other information, including a written report, as may be reasonably requested by ESI.

10. Supplier shall maintain security incident management policies and procedures, including detailed security incident escalation procedures. Supplier will initiate and coordinate orally or in written responses Supplier-identified incidents related to the Products or Services provided to ESI that pose a cyber security risk. This term must be present for any Products or Services in scope for NERC CIP.

11. Each party acknowledges that, in the course of performance of the Agreement, confidential and sensitive information that is transferred by ESI to Supplier Services/Infrastructure/Platform may be restricted by law from disclosure. Notwithstanding any other provision of the parties' Agreement to the contrary; Supplier, or any of its affiliates or subcontractors, will be responsible for all damages, fines, and corrective action arising from any security incident, breach of confidentiality and/or security of ESI data caused by Supplier, its officers, directors, employees, agents, representatives, contractors or others under its direction and control. The provisions of this clause shall supersede any term of the Agreement that conflicts with this provision.

Client Environment.

12. If access to Supplier's system, software or Services relies on third-party software installed on ESI's computers, Supplier agrees to maintain compatibility with the third-party software's critical security update schedule, at no charge to ESI. Supplier will provide updated Product to ESI within one (1) week of a third-party's notice of a flaw in software. If agreed upon in writing by both parties, the update schedule can be delayed.

Training.

13. The Supplier will provide periodic cyber security awareness training for its employees participating in the execution of any work under this Agreement.

Federal Regulation.

14. If applicable, Supplier agrees to assist ESI with compliance with federal regulatory requirements regarding information systems applying to system, software or Services defined in the Agreement.

Right to Audit: Oversight of Security Compliance.

15. ESI or its designated agent shall have the right to perform an assessment, audit, examination or review of all controls in Supplier's physical and/or technical environment in relation to the system, software or Services being provided to ESI pursuant to the Agreement to confirm Supplier's compliance with these terms, as well as any applicable laws, regulations and industry standards. Supplier shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure and application software that processes, stores or transports information and data for ESI pursuant to the Agreement. In addition, upon ESI's request, Supplier shall provide ESI with the results of any audit by or on behalf of Supplier that assesses the effectiveness of Supplier's information security program as relevant to the security and confidentiality of information and data shared during the course of the Agreement.

The following additional terms apply when access by ESI or hosting of ESI data occurs outside of ESI systems. Examples include, but are not limited to Software as a Service (SaaS), Infrastructure as a Service (IaaS), or Platform as a Service (PaaS).

Hosted Environment.

16. If Supplier stores ESI information on a Supplier system (the “Hosted Environment”), Supplier agrees to maintain current anti-malicious code mechanisms for the environment it is hosting. Supplier will have a patch management program that keeps anti-virus/malware signatures updated as well as operating systems and any other software systems supporting the environment patched with regard to published security related vulnerabilities. Updates must be evaluated within one (1) week of publication of said patches/updates, and patches/updates deemed applicable must be implemented within one (1) month, unless a further delay is agreed upon by both parties. Published urgent critical patches are expected to be evaluated, and if deemed applicable, implemented in an expedited manner.

17. Supplier agrees to maintain secure configurations of its hosted environment with respect to emerging threats.

18. Access to Supplier’s Hosted Environment requires authentication and encryption.

Data Processing & Storage - Ownership of and Access to Data.

19. Other than the rights and interests expressly set forth in the Agreement, ESI reserves all right, title and interest (including all intellectual property and proprietary rights) in data it provides to Supplier or ESI data which is otherwise in Supplier’s possession or control. At ESI’s sole discretion, ESI retains the right to access and retrieve its data stored outside of ESI systems on Supplier’s system, software or Services infrastructure.

Disposition of Data.

20. Upon written request by ESI made before or within sixty (60) days after the effective date of termination or expiration, Supplier will make available to ESI a complete and secure (i.e., encrypted and appropriately authenticated) download file of ESI data in agreed format, or other format as reasonably requested by ESI.

21. On the expiration or termination of the Agreement or any applicable Statement of Work or Purchase Order, Supplier shall, at the choice of ESI securely return all ESI data transferred and all copies thereof to ESI, or shall securely destroy all the ESI data and certify in writing to ESI that it has done so, unless applicable law does not allow for the return or destruction of all or part of the data transferred. In that case, Supplier represents and warrants that it will ensure the confidentiality of the data transferred and will cease use and active processing of ESI data. ESI or its designated agent shall have the right to audit Supplier’s data processing facilities for purposes of confirming compliance with the requirements set forth in this section.

Location of Data and Supplier Staff with Access to Data.

22. Supplier agrees to store and process ESI’s data only in the continental United States. Supplier will limit remote access to ESI data to employees located in the continental United States or such other geographic location expressly agreed upon in writing by ESI.

Disaster Recovery.

23. Supplier has disaster recovery and business continuity mechanisms, processes, and responsibilities in place to ensure continuation of the contractually-agreed level of software, system or Services.

Vendor Outsourcing.

24. Supplier must identify to ESI any functionality that is outsourced, as well as the identity and the location of the outsourcing. Regardless of any such outsourcing, Supplier will remain directly responsible for all aspects of complying with the terms of the Agreement with ESI.

Legal/Government Requests for Access to Data

25. Where Supplier is required to disclose the confidential information of ESI pursuant to the order of a court or administrative body of competent jurisdiction or a government agency, Supplier shall (i) if practicable and permitted by law, notify ESI prior to such disclosure, and as soon as possible after such order; (ii) cooperate with ESI (at ESI's cost and expense) in the event that ESI elects to legally contest, request confidential treatment, or otherwise attempt to avoid or limit such disclosure; and (iii) limit such disclosure to the extent legally permissible.

CONFIDENTIAL INFORMATION REQUIREMENTS

[If Supplier's scope of work includes significant confidential or personal information – This Exhibit F should be included as part of the agreement.]

1. **Scope.** Supplier provides services to ESI or any of its affiliates. In connection with those services, Supplier receives or has access to confidential information, including personal information that may be subject to protection under state data security laws and other federal laws, rules and regulations, as well as industry standards, pertaining to the secure treatment of personal information about individuals (“Applicable Laws”). The purpose of these Confidential Information Requirements is to ensure Supplier is properly managing and securing personal information in accordance with Applicable Laws and the requirements in this Exhibit.
2. **Personal Information.** Personal Information is any information provided by ESI or collected by Supplier in connection with services provided to ESI:
 - a) That identifies or can be used to identify, contact, or locate the individual to whom such information pertains, or
 - b) From which identification or contact information of an individual person may be derived.
3. **Confidential Information.** Confidential Information is any information which, if its confidentiality, integrity or availability is compromised can result in significant reputational or financial loss for ESI, which may include, but is not limited to, all nonpublic information that ESI designates as being confidential or which, under the circumstances surrounding disclosure, should be understood to be treated as confidential. Confidential Information includes any business, technical, marketing, financial, customer, supplier, employee or other information of the ESI or any of its affiliates, whether in electronic, oral or written form, and all memoranda, summaries, notes, analyses, compilations, studies or other documents prepared by Supplier which contain or reflect such information. The term “Confidential Information” includes Personal Information.
4. **Applicability and Ownership.** This Exhibit applies to Confidential Information (a) received by Supplier from ESI or (b) received or produced by Supplier on behalf of ESI. As between the Supplier and ESI, the ESI shall own all rights and interests in Confidential Information.
5. **Confidentiality Obligations.** Supplier shall, and shall cause its employees, officers, agents, affiliates, and subcontractors to, hold Confidential Information in strict confidence and protect such information using at least the same care it uses to protect Supplier's own confidential information, which shall be no less than reasonable care. Supplier shall limit access to Confidential Information to its personnel with a business need for such access. Supplier shall be responsible for any breach of the requirements of this Exhibit by any of its employees, officers, agents, affiliates and subcontractors.

Supplier shall deactivate network and all other support accounts for anyone no longer providing service to ESI within twenty-four (24) hours of user leaving and within two (2) hours for non-voluntary dismissal. Supplier shall not share or otherwise disclose Confidential Information to any third party without ESI's prior written permission.
6. **Scope of Use of Confidential Information.** Supplier shall not use or disclose Confidential Information for any purpose other than:

- a) As permitted or required to perform the services set forth in this Agreement;
- b) For the proper management and administration of Supplier; or
- c) As required by Applicable Laws.

In no event shall Supplier use or disclose Confidential Information in a manner that violates or would violate Applicable Laws if such activity were engaged in by ESI.

7. Safeguards to Protect Confidential Information.

- a) Security Incident. Security Incident means (i) any unauthorized use or disclosure of ESI confidential data by Supplier or any of its affiliates or subcontractors; (ii) any unauthorized use or disclosure of Supplier's or any third-party development environment, product or service provided to ESI; and (iii) any reasonable belief that an unauthorized individual has accessed ESI data.
- b) Information Security Plan. Supplier shall implement and maintain a Written Information Security Program ("WISP") that contains physical, administrative and technical safeguards necessary to ensure the confidentiality, integrity and availability of Confidential Information, including such physical, administrative and technical safeguards as are necessary to ensure that Confidential Information disclosed between Supplier and ESI is not used or disclosed by Supplier except as provided in this Exhibit.

Supplier's WISP must include the following requirements:

- i. Conduct annual or more frequent risk assessments,
- ii. Conduct internal and external network vulnerability scans at least quarterly and after significant changes in the network (for example, installing new system components, firewall rule changes, product upgrades, etc.),
- iii. Take appropriate steps to prevent unauthorized access to Confidential Information,
- iv. Employ current industry standard encryption for Confidential Information (including Personal Information) in transit and for sender/receiver authentication,
- v. Employ industry recognized encryption on any portable devices, including but not limited to, laptops, USB drives, mobile phones, backup devices or media on which Confidential Information is stored,
- vi. Adhere to the PCI Data Security Standards when handling credit cards,
- vii. Implement procedures to restrict access to Confidential Information to employees who have a need to know such information,
- viii. Assign responsibility and accountability for security,
- ix. Implement system software upgrades and patches within a reasonable timeframe based on risk,
- x. Install antivirus and antimalware protection software for all equipment connected to the network, and update definitions daily,
- xi. Test and evaluate system components before implementation,
- xii. Develop and implement procedures to detect actual and attempted attacks or intrusions into systems and to proactively test security procedures (for example, penetration testing),
- xiii. Develop process for handling exceptions and situations not specifically addressed in the WISP,
- xiv. Develop and implement business continuity and disaster recovery plans and related testing and
- xv. Perform annual employee privacy and security training.

- c) Protection and Detection. Supplier's WISP shall include policies and procedures to detect and protect against all actual or suspected Security Incidents. Supplier shall cooperate with ESI's request to complete any security surveys, assessments or audits. Supplier shall promptly correct any deficiencies in its security program that are detected by Supplier or ESI at no cost to ESI.
- d) Reporting Security Incidents. Supplier shall report any Security Incident to ESI as set forth below. Supplier shall make the report to ESI immediately upon discovery, but in no event more than two (2) business days after Supplier reasonably believes there has been or will be such Security Incident. Supplier's report shall identify: (i) the nature of the unauthorized use or disclosure; (ii) the ESI data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what Supplier has done or shall do to mitigate any Security Incident; and (v) what corrective action Supplier has taken or shall take to prevent future similar Security Incident. Supplier shall provide such other information, including a written report, as may be reasonably requested by ESI.

Report Security Incidents by telephone to the ESI Cyberthreat Operations Center (CTOC) at 816-701-0600. The CTOC is available 24 x 7, 365 days a year.

- a) Responding to Security Incidents. Supplier shall immediately respond to any actual or suspected Security Incidents, including taking all actions necessary to prevent, contain and mitigate such incident. Supplier shall immediately investigate the Security Incident and report its findings to ESI as set forth in Section 7(d) above. ESI the right to conduct its own investigation of any Security Incident and Supplier shall fully cooperate with any ESI investigation, including allowing access to Supplier's facilities and systems to ESI and its third-party incident responders and insurers. Supplier shall also provide ESI with a root cause analysis of the Security Incident, including any liability known of an insider act that may have contributed to the Security Incident. Except to the extent required by law, Supplier shall not disclose nor publicize the Security Incident in any manner to anyone without ESI's prior written consent. ESI shall have final say regarding how a Security Incident is investigated and managed. Supplier shall refer requests for information regarding a Security Incident to ESI's contacts to allow ESI to manage and control customer, consumer, media, regulatory and legal inquiries.
 - b) Mitigation. Supplier shall mitigate, to the extent practicable, any harmful effect of a use or disclosure of Confidential Information by Supplier in violation of the requirements of this Exhibit.
 - c) Incident Response Vendors. Supplier shall ensure that all vendors hired to investigate, remediate or otherwise learn of a Security Incident shall sign a confidentiality agreement prior to being retained or informed of such incident. ESI reserves the right to request for Supplier to use a different vendor to perform the investigation, remediation or service related to responding to a Security Incident.
8. **Use of Subcontractors**. To the extent Supplier uses one or more subcontractors, which includes affiliates or agents, to perform its obligations under this Agreement, and such subcontractors receive or have access to Confidential Information, Supplier shall ensure that each such subcontractor complies with (a) the subcontractor requirements in Section 8(a) and (b), and (b) substantially the same provisions and conditions related to the protection and confidentiality of Confidential Information as those that apply to Supplier under this Exhibit. Subcontractors that

meet the requirements in (a) and (b) shall be deemed (“Qualified Subcontractors”). Supplier shall only use Qualified Subcontractors to perform services that use or have access to Confidential Information.

- a) Background Checks. Supplier shall require background checks of, and non-disclosure agreements by, the Supplier’s employees and subcontractors (including volunteers and interns) with access to Confidential Information. Supplier shall make available upon request to ESI a copy of its non-disclosure agreement template and background check matrix, by level of exposure to ESI’s information.
- b) Personnel Certification. An officer of Supplier shall certify that all employees and subcontractors managing or accessing ESI’s information are in compliance with all requirements in this Exhibit, including Supplier’s onboarding program.

9. **Remedies**. Both parties acknowledge that remedies at law may be inadequate to protect ESI against any actual or threatened breach of the requirements of this Exhibit by Supplier, and, without prejudice to any other rights and remedies otherwise available to ESI agree that ESI may seek a temporary restraining order and/or an injunction to protect its Confidential Information without proof of any actual damages.

10. **Term, Termination and Transition.**

- a) Term. This Exhibit is effective as of the Effective Date of the Agreement and shall continue pursuant to the terms of the Agreement and shall not terminate early then when all of the Confidential Information provided by ESI to Supplier or received by Supplier on behalf of ESI is securely destroyed or returned to ESI.
- b) Termination upon Breach or Security Incident. In the event Supplier breaches a material provision of this Exhibit or there is a Security Incident, the parties shall:
 - i. If cure of the Security Incident is possible, Supplier shall provide ESI with notice of such incident and the Vendor shall have thirty (30) days to cure such breach.
 - ii. If cure of the Security Incident is not possible, ESI may terminate this Agreement, or any portion thereof, upon notice to Supplier with termination effective as of the date ESI gives written notice of termination to Supplier.
- c) Transition Assistance. Upon expiration or earlier termination of the Agreement for any reason, Supplier shall fully cooperate with ESI’s request to transition the services and all ESI information to ESI or a third party designated by ESI. Such transition assistance shall include Supplier providing specifications, documentation, information and other assistance necessary to enable ESI or its third-party vendor to provide the services. The parties shall promptly and mutually agree on fees for transition services, if any.