

**GENERAL TERMS AND CONDITIONS  
FOR PURCHASES THAT INCLUDE SERVICES**

**1. APPLICABILITY**

These General Terms and Conditions for Purchases That Include Services (referred to herein as “Terms and Conditions”) apply to Supplier’s sale of services or goods which include services to SCANA Corporation and/or one or more of its subsidiaries. These Terms and Conditions consist of the following:

- A. Articles 1 through 46, which apply to all purchases;
- B. Supplement entitled “Nuclear,” pertaining to goods and services relating to the V.C. Summer Nuclear facility, which applies if designated on the Purchase Order;
- C. Supplement entitled “Engineering Services,” pertaining to certain engineering services, which applies if designated on the Purchase Order;
- D. Supplement entitled “Environmental,” pertaining to certain environmental services, which applies if designated on the Purchase Order;
- E. Supplement entitled “Aviation,” pertaining to certain aviation services, which applies if designated on the Purchase Order.
- F. Supplement entitled “Data Security”, pertaining to access to Company’s proprietary data or Company’s computer systems, which applies if designated on the Purchase Order.
- G. Supplement entitled “Drug and Alcohol Testing for Pipeline Contractors” pertaining to substance abuse testing for pipeline contractors, which applies if designated on the Purchase Order.

**2. DEFINITIONS**

As used throughout the Contract, the following terms shall have the meanings set forth hereinafter:

- A. “Company” shall mean the affiliate of SCANA Corporation which is contracting for the Work, as identified on the Purchase Order.
- B. “Contract” shall mean the entire agreement between Company and Supplier, as set forth in the Purchase Order, these Terms and Conditions, and the Statement of Work (including any attachments, specifications, supplemental conditions, drawings, procedures or specifications contained or referenced in any of the foregoing). The order of precedence among these documents shall be (1) the Purchase Order; (2) these General Terms and Conditions For Purchases That Include Services; and (3) the Statement of Work.
- C. “Laws” shall mean all aspects of all ordinances, laws, statutes, requirements, codes, rules and regulations of all bodies of government and governmental agencies having jurisdiction over any aspect of the Work

- D. "Procurement Agent" shall mean Company's representative through whom commercial matters shall be channeled and who shall have sole authority to approve modifications of the Contract on behalf of Company.
- E. "Purchase Order" shall mean the document provided by Company which is labeled "Purchase Order," or in the absence of such a document, the document provided by Company which establishes the quantities and price of the Work.
- F. "Statement of Work" shall mean the document, if any, which sets forth the technical aspects of the Work.
- G. "Supplier" shall mean the person or entity providing the Work to Company pursuant to the Contract.
- H. "Work" shall mean the goods and/or services set forth in or necessary to perform the Contract.

### **3. LAWS AND REGULATIONS**

- A. Supplier is responsible for knowing the requirements of all Laws. Supplier shall not rely on Company or the Contract for any information regarding the substance, existence, applicability, requirements or interpretation of any Laws.
- B. Supplier shall comply with all Laws applicable to its responsibilities under the Contract, including but not limited to worker employment eligibility laws. Supplier shall be solely responsible for supervision of its employees and subcontractors and their compliance with Laws, whether or not on premises owned or controlled by Company. Should Supplier become aware of any violations of any Laws, it shall promptly notify designated Company personnel.
- C. Supplier shall, at its own expense, obtain, and at all times during the term of this Contract, maintain as current, any and all licenses, permits, certifications and/or registrations required by federal, state and local governments, regulatory authorities, and commissions, including the applicable contractors' licensing board. Such licenses shall apply to the proper classifications required for undertaking the Work. Supplier shall, upon request by Company, furnish satisfactory evidence of being so licensed.

### **4. TAXES**

- A. For purposes of this Article, "Taxes" shall mean all taxes, including income, gross receipts, unincorporated business income, payroll, employment compensation, Social Security, excise, ad valorem, sales, use, personal property (tangible and intangible), real estate, business license, excise and stamp, as well as any other assessments based on income, revenue, or gross receipts, imposed by any state, local or Federal government body. Additionally, the definition of "Taxes" includes any license, documentation, recording and registration fees, all levies, imports, duties, assessments, fees (customs or otherwise), charges and withholdings of any nature whatsoever, and all penalties, fines, additions to tax, and interest imposed by any local, state or Federal government body.
- B. Subject to subarticle C. below, Supplier shall be fully responsible and Company shall have no liability for any Taxes under the Contract, for the Work, or otherwise.

- C. Unless otherwise specified, Supplier shall exclude any sales and use tax in any submitted Contract price and on any resulting invoices to Company. If sales and use taxes are excluded, Company shall be responsible for the payment to the appropriate state of any sales and use taxes applicable to the Work. When required by the Company, Supplier shall itemize each invoice to show as separate items, labor, material and equipment, freight, and other separable charges for the Work hereunder.
- D. For Work performed in the State of South Carolina on contracts of \$10,000 or more which involve labor, any nonresident contractor must comply with applicable laws regarding withholding or Company will withhold two percent (2%) of each payment made to the nonresident contractor.

## **5. EMPLOYMENT POLICIES**

The parties hereby incorporate the requirements of 41 CFR 60-1.4(a), 41 CFR 60-741.5(a), 41 CFR 60-250.5(a), 48 CFR 52.219-8 and 48 CFR 52.219-9, if applicable.

## **6. SAFETY**

- A. Supplier shall take all necessary or advisable precautions for the safety of all persons and property at, on, or near the Work. Supplier shall comply with all applicable provisions of Laws, building codes and safety regulations of Company. Supplier shall erect and maintain all necessary or advisable safeguards, as required by the conditions and progress of the Work, for the protection of workers and the public and shall post danger signs warning against the hazards created by the Work. In the event any situation arises which may involve danger to persons or property, Supplier shall act with good judgment to prevent or minimize injury to persons and damage to property.
- B. Upon request by Company, Supplier will provide to Company materials and documents to evidence the safety program of the Supplier, including but not limited to, OSHA 300 logs, injury logs, workers compensation experience modification ratings (EMRs), and copies of policies, programs and procedures for evaluation by the Company. A safety record indicating performance below industry average may be cause to disqualify Supplier or deem Supplier to be in default.
- C. In the event Supplier encounters in the performance of the Work materials or substances which Supplier recognizes or suspects may be hazardous or toxic, including, but not limited to, asbestos, lead or other regulated material and the presence of which was not specifically referenced in the Contract and recognized in the Statement of Work, Supplier will immediately cease that part of the Work which is affected and give notice to Company so that Company can give Supplier further direction.
- D. Supplier shall not permit or suffer the introduction of alcoholic beverages or liquors nor any narcotics in the vicinity of the Work nor upon any grounds owned or controlled by Company. Supplier shall not permit entry to the Work areas or to Company's grounds of any employee of Supplier or of any subcontractor who is under the influence of any alcoholic beverage or liquor or any narcotic (whether or not medically prescribed) or any non-narcotic drug or medication where the fact of such influence may be dangerous to the employee, to the public, to the Work or to Company's grounds, facilities, or personnel.
- E. Company shall have the right to require Supplier and its employees on premises owned or controlled by Company to undergo substance and alcohol abuse testing and shall also have the right to search Supplier and its employees' persons and personal property with regard to controlled substances and alcohol at all times and without prior notice. In the event that Company's requirement for a test with

respect to any individual employee arose out of Company's reasonable suspicion of substance or alcohol use, the employee may not return to the Company's premises until the employee has satisfactorily passed the test. Supplier and its personnel testing positive for controlled substances or alcohol shall not be used in performance of the Work. For purposes of this Section, the thresholds of a "positive" test are the same as the Company utilizes with its own employees, which thresholds are available to Supplier on request. All Work performed by the rejected personnel shall be subject to inspection and rejection by Company and rejected Work shall be reperfomed by Supplier at no additional charge to Company. Supplier shall inform all of its employees of their being subject to substance and alcohol abuse testing and/or search and shall require each employee performing Work on Company's premises to consent, prior to being engaged in the Work, acknowledging Supplier and its employees compliance with Company's policies with regard to substance abuse and consenting to testing and/or search at any time as allowed herein.

## **7. OPERATION OF COMPANY'S EQUIPMENT AND SYSTEMS**

Supplier's employees shall not utilize or attempt to utilize any of the Company's equipment and/or systems, unless expressly made a part of the Work as defined in the Contract or as directed by the Company. Failure to abide by this requirement shall be considered sufficient cause for the immediate removal of the employee or employees involved and for termination of the Contract for cause.

## **8. PROTECTION OF WORK AND PROPERTY**

Supplier shall protect all Work and property from damage or loss that may result from the performance of the Contract. Should the Work be suspended temporarily, Supplier shall take such steps as may be necessary or advisable to protect it against damage or loss. Work or property destroyed, damaged, or lost by an act or omission of Supplier shall be replaced or repaired to Company's satisfaction at Supplier's expense. Should any Work or property require such replacement or repair prior to final payment, and Supplier fails or refuses to replace or repair it in accordance with the Contract, Company may replace or repair such Work or property, or in case of damage to the property of a third party reimburse the owner thereof, and deduct the cost of such replacement, repair or reimbursement from any funds due or to become due to Supplier under the Contract; or, if final payment has been made, Supplier shall reimburse Company such amounts.

## **9. SIGNS**

The premises shall be maintained free from any and all advertising and signboards of every kind, except those approved by Company. The foregoing restrictions do not apply in the case of signage (a) which the Supplier reasonably believes are important in ensuring the safety of the public, Supplier, and/or Company; or (b) which is required by Laws.

## **10. PUBLICATIONS AND PHOTOGRAPHS**

Publications and advertisements concerning the Work and/or the Contract shall not at any time be made by or on behalf of Supplier, unless prior written authorization therefor is obtained from Company. Picture taking shall not be allowed on the site except with written permission of Company.

## **11. COMPANY'S NAME AND INTELLECTUAL PROPERTY**

Supplier shall not use Company's name as a reference or for any other purpose without obtaining prior written consent from an authorized representative of Company, and this consent shall be obtained separately for each proposed usage. Usage of Company's service marks, trademarks, logos or any other such intellectual property is specifically forbidden.

## **12. REPORTS**

Supplier shall furnish Company periodic reports of Work progress, if requested by Company. Such reports shall be made as frequently as requested and in the form prescribed by Company.

## **13. AUDITS**

- A. For purposes of this Article, "Records" shall mean Supplier's and subcontractors' books, records, correspondence, bids, purchase orders, invoices, accounting procedures and practices and any other supporting evidence relating to the Work and/or the Contract.
- B. All Records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by Company to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims based on Supplier's or subcontractor's actual costs incurred directly in the performance of Work under the Contract. Company shall have access to said Records from the effective date of the Contract, for the duration of the Work, and until three (3) years after the date of final payment by Company to Supplier pursuant to the Contract unless otherwise specified in the Contract. Company shall have access, during normal working hours, to all necessary Supplier and subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this Article. Company shall give Supplier or subcontractor reasonable advance notice of intended audits.
- C. Supplier shall require subcontractors to comply with the provisions of this Article by insertion of the requirements hereof in any subcontract arising out of the Contract.
- D. Supplier shall cooperate fully with Company in any such inspection or audit, as well as in any inspection, audit or investigation conducted by governmental authority or conducted by Company at the direction of any governmental authority.

## **14. SCHEDULING OF WORK**

All Work shall be scheduled by Supplier subject to the approval of Company and within the completion date(s) required by Company. There shall be no deviation from the approved schedule without the Company's prior notification and authorization. Any Work performed without Company's authorization will be done at Supplier's risk and expense and shall be subject to rejection.

## **15. INSPECTION OF WORK**

All Work shall be subject to inspection by Company. Company's authorized personnel shall have reasonable access to the Work at all times for the purpose of inspection. Supplier shall provide proper facilities for such access and inspection. The presence of Company's personnel and/or inspection of the Work shall not in any way alter, modify, or lessen the obligation of Supplier to comply with the requirements of the Contract. Any inspection by Company's personnel shall not be considered as an acceptance, approval, or waiver of warranty or other rights of the Work inspected. Company will be notified when Supplier determines that the Work does not conform to the Contract. In the event of a determination of unsatisfactory performance on the part of Supplier, the nonconforming Work shall be corrected in accordance with the requirements of the Contract at Supplier's expense.

## **16. APPROVAL OF WORK**

All Work shall be subject to the approval of Company. The presence of Company's personnel and/or approval of the Work shall not in any way alter, modify, or lessen the obligation of Supplier to comply with the requirements of the Contract. Supplier shall perform all Work in such a manner as to comply with the Contract. Company shall have the authority to stop the Work without cost or liability whenever such stoppage is necessary to ensure proper compliance with the Contract.

## **17. INDEPENDENT CONTRACTOR STATUS**

It is the intention of the parties to create between themselves the relationship of owner and independent contractor. Supplier shall control the manner and details of performance of the Work hereunder, subject to compliance with specifications, drawings, plans, and the reasonable rules, regulations and procedures of Company governing the operation of Company's facilities, Company's interest being in the result. No employees, contractors, subcontractors, or agents of Supplier shall at any time be deemed or have the rights of employees of Company, and neither Supplier nor any of its employees, contractors, subcontractors, or agents shall be eligible to participate in any employee benefit plan sponsored by or participated in by the Company. Prior to any individual being assigned to the Work, the Supplier shall require that individual to execute the written acknowledgment required by the Contractor Authorization Form, Attachment I, hereof. The executed original of the Contractor Authorization Form shall be provided to Company prior to start of any Work.

## **18. FORMER SCANA EMPLOYEES**

- A. For purposes of this Agreement, "Former SCANA Employee" means a former employee of SCANA Corporation or any of its subsidiaries.
- B. Supplier specifically agrees that in furtherance of the Work contemplated by this Contract neither it, nor any of its subcontractors, will employ, hire, contract with, or utilize the services (consulting, managerial or otherwise) of a Former SCANA Employee who left SCANA's employ less than one year before being assigned to work on this Contract without the express written permission of SCANA's Human Resources Department. Without limiting the foregoing, the terms of the "Independent Contractor Status" Article contained in these Terms and Conditions shall apply for any Former SCANA Employee utilized for any portion of the Work.

## **19. SECURITY**

Supplier shall comply with all of Company's security programs and requirements.

## **20. SUBCONTRACTORS**

Supplier shall not subcontract any portion of the Work without first securing the written consent of Company. Supplier must have disclosed any intent to subcontract any part of the Work prior to the execution of the Contract. When required by Company, Supplier shall provide a copy of the agreement with each subcontractor which shall be complete in every detail, including prices. Requests for consent shall include the names and addresses of all subcontractors and nature and extent of the Work to be performed. Supplier agrees to bind every subcontractor and every subcontractor shall be bound by terms essentially the same as the terms of the Contract so far as they apply to the work to be performed by the subcontractor, unless specifically noted to the contrary in a subcontract approved by Company. Consent to any such subcontracting shall not relieve Supplier of full responsibility for the Work to be performed by the subcontractor.

## **21. COOPERATION WITH OTHER CONTRACTORS**

Company may employ other entities or persons for those portions of related work which are not included as a part of the Work herein. Supplier shall cooperate with such other entities or persons working at or near the site of Supplier's operations and shall afford them reasonable opportunity for the delivery and storage of their materials in the execution of their work, shall coordinate its Work with theirs, and shall follow any directions given by Company in that regard. Where Supplier's Work depends on proper execution or the completion of a job or jobs by other entities or persons, Supplier shall promptly report to Company any defects or deficiencies in such other work that renders it unsuitable for proper execution of the Work included in the Contract.

## **22. DEMURRAGE**

Demurrage on material caused by Supplier's acts or omissions shall be paid by Supplier.

## **23. FORCE MAJEURE**

Neither party shall be liable to the other for any loss or damage due to any failure or delay in performance hereunder resulting from any cause beyond such party's reasonable control, including, but not limited to, acts of God; acts or omissions of civil or military authority; acts or omissions of the other party hereto; fires; floods; hurricanes; tornados; epidemic; quarantine restrictions; strikes or other labor disputes; wars or warlike circumstances; terrorism; or compliance with changes in applicable regulations or directives of national, state or local governments or any department thereof effective after the date of the Contract(s) affected by the force majeure. The party asserting the force majeure as an excuse from performance shall have the burden of establishing the existence of the force majeure event. That party must give the other party notice verbally within twenty-four hours of the occurrence of a force majeure event, confirmed in writing within ten days thereafter, such notice to state the nature of the event and the anticipated length of delay and shall include an outline of the remediation plan for approval. Such party shall take all reasonable steps to mitigate the effects of any force majeure event as soon as practicable (provided, however, that this shall not require settlement of labor disputes negotiated in good faith). Any written or verbal notice from the Supplier to the Company shall be directed to the Procurement Agent.

## **24. INSURANCE BY SUPPLIER**

- A. Supplier must provide and maintain, until the Work is completed and accepted, and to require any approved subcontractor to furnish and maintain at all times during the course of the Work to be performed hereunder policies of insurance, including Workers' Compensation, liability insurance, and other minimum insurance coverages as follows:
- i. Commercial General Liability Coverage –
    - (1) \$1,000,000 occurrence/\$2,000,000 aggregate Bodily Injury and Property Damage
    - (2) Broad Form Property Damage, including Contractual Liability
    - (3) Independent Contractors, if subcontractors will be utilized
    - (4) Explosion, Collapse and Underground Hazard (XCU), if the Work involves excavation or underground construction
  - ii. Automobile Liability Coverage - \$1,000,000  
All owned, hired, and non-owned automotive equipment used in connection with the insured operation.
  - iii. Workers' Compensation – Statutory  
Employers' Liability - \$1,000,000  
This coverage must include an "all-states" endorsement, as well as coverage under U.S. Longshoremen's and Harbor Workers Act where applicable. Suppliers must maintain Workers' Compensation coverage regardless of statutory requirements pertaining to the number of employees in Supplier's organization.
- B. The insurance requirements stated herein may be changed only by specific written agreement by Company.
- C. Before any Work is started under the Contract, Supplier shall provide Company an insurance certificate evidencing coverages as required herein and in a form satisfactory to Company. Such certificate shall provide that at least thirty (30) days written notice be given to Company prior to any material change or cancellation of the insurance. Copies of the insurance policies signed by the insurance companies or other authorized representatives shall be provided upon request. All applicable insurance certificates shall be on Acord forms showing the certificate holder as:
- SCANA Corporation and/or its subsidiaries  
c/o Supplier Strategy - MC D211  
220 Operation Way  
Cayce, SC 29033-3701.
- D. All insurance shall be with sound insurance companies which have an AM Best rating of A-VII as the minimum and are authorized to do business in the state where the Work is performed.
- E. Neither a failure of Supplier to provide the required certificate of insurance nor Supplier's submission of a certificate of insurance not in conformance with the insurance requirements stated herein shall relieve Supplier from the obligation to have in force the required insurance coverages.
- F. None of Supplier's insurance policies shall have any "other insurance" clause or language which would jeopardize the primacy of Supplier's insurance with respect to Company's self-insured retention or excess insurance policies.

- G. Except for Workers' Compensation and Professional Liability (when required) coverage, all of Supplier's insurance policies must list "SCANA Corporation and its subsidiaries" as an additional insured.
- H. Coverage provided by Supplier shall be primary and non-contributory.
- I. None of Supplier's personnel shall be deemed for any purpose to be solely or dually employed by Company. If any employee of Supplier shall recover benefits under Company's Workers' Compensation as a result of injury or disease sustained in, or Unemployment Insurance coverage resulting from, performing Work under the Contract while on Supplier's payroll, Supplier shall reimburse Company for the full amount of such benefits and any cost or expenses incurred by Company related thereto.
- J. Supplier shall accept, in connection with the Contract, the provisions of all the workers' compensation laws of the state in which the Work is performed and any re-enactments and supplements thereto. In addition, Supplier shall maintain workers' compensation coverage for all Supplier employees performing the Work, regardless of whether required to do so by state law.

## **25. INDEMNIFICATION**

Supplier, on behalf of itself, its affiliates, successors, assigns, directors, employees, and agents (collectively the "Indemnitor") hereby agrees to defend, indemnify and hold the Company and its affiliates, successors, assigns, directors, employees, and agents (collectively the "Indemnitee") harmless from and against any and all liabilities, demands, claims, suits, actions, proceedings, fines, penalties, awards, forfeitures, losses, damages and the costs and expenses incident thereto (including, but not limited to, costs of investigation, defense, settlement and attorney's fees) arising out of or resulting in any way from any defect in the Work or equipment furnished by Supplier hereunder, any breach of the Contract (including these Terms and Conditions), or any negligent or willful act or failure to act on the part of the Indemnitor, or the part of any agent, servant, or subcontractor of the Indemnitor, whether independent or otherwise.

## **26. PERFORMANCE AND PAYMENT BOND**

If requested by Company, prior to undertaking any Work hereunder, Supplier shall advise Company of the actual cost, without any markup, of securing and maintaining while the Work is being performed, a performance and payment bond. Based on this information, Company may require Supplier to secure and maintain while the Work is being performed this performance and payment bond, in a form and with sureties acceptable to Company, insuring the full, proper performance of the Contract and the completion of the Work in a skillful and professional manner, and the payment of all obligations arising thereunder. Company's liability for the cost of such bond will not exceed the actual cost amount provided to Company by Supplier. Such bond shall be in an amount determined by Company, up to one hundred percent (100%) of the total price of the Work. The determination of whether Supplier has failed to perform the Contract shall be made solely by Company. Company reserves the right to terminate the Contract in the event a required bond is not procured or is not maintained in effect until final acceptance of the Work.

## **27. LIENS**

- A. Supplier shall, whenever requested to do so, furnish Company, in such detail as may be required by Company, statements in writing of all sums owed by Supplier or subcontractors for services

rendered, labor performed or materials, supplies, tools or equipment furnished or used or to be used in the performance of the Contract.

- B. Supplier shall neither file nor cause to be filed any lien with respect to the Work to be performed or materials furnished hereunder and hereby waives any right to file or cause such a lien to be filed.
- C. In the event any claim has been asserted against Supplier or Company or any lien has been filed with respect to the Work, further payment under the Contract shall not become due until all such claims or liens have been satisfied, released and/or discharged of record without cost or expense to Company. If any lien is filed or remains unsatisfied after all payments are made, Supplier shall refund to Company all monies that the latter may be compelled to pay in discharging such a lien, including, but not limited to, all costs and attorney's fees associated therewith. At Company's option and upon request by Company, Supplier shall discharge any lien filed with respect to the Work by posting a bond as provided by applicable Laws at Supplier's expense. If Supplier fails to do so, Company may procure the release, satisfaction and/or discharge of any such claim or lien and deduct all costs and expense of Company associated therewith from any money due or to become due to Supplier on any account.
- D. If required by Company, the final payment shall not become due until Supplier delivers to Company a complete release of all liens arising out of its Work, or receipts showing payment in full in lieu thereof, and an affidavit showing that, so far as it has knowledge or information, the releases and receipts include all labor, materials, supplies and services for which a lien can be filed. Supplier may, where a complete release of liens is impracticable or receipts in full cannot be furnished, provide a bond satisfactory to Company to indemnify it against any lien or claim.

## **28. INTELLECTUAL PROPERTY**

Supplier shall assume at its sole expense the defense of and shall indemnify and hold Company harmless from any and all claims, demands, costs, suits, actions, proceedings, fines, penalties and attorneys' fees (and interest thereon) resulting from or relating to any actual or asserted infringement by Supplier of any patent, design, trade name, trademark, service mark or copyright in connection with any Work or equipment furnished by Supplier hereunder, except to the extent the claim resulted from following directions, specifications, drawings, plans or procedures prepared by Company or by third parties for Company and selected solely by Company. Company may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Supplier. Supplier has an affirmative duty to promptly notify Company when Supplier is made aware of a claim of alleged infringement. In the event Work or equipment so defended is held to constitute infringement or its use is enjoined, Supplier shall, at its own expense, either: (a) procure for Company the right to continue to use such Work and/or equipment; (b) reperform the Work or replace the equipment with substantially equivalent noninfringing Work or equipment; or (c) modify the Work and/or equipment so that it becomes noninfringing; provided, however, that such Work reperformed and equipment replaced or modified conforms to the requirements of this Contract.

## **29. CONFIDENTIALITY**

- A. For purposes of this Article, "Confidential Information" shall mean the discussions between the parties concerning the Work and/or the Contract; any and all written, electronic, printed or other materials disclosed (whether before or after the date hereof) by Company or its agents to Supplier or its agents and the substance and content thereof; all marketing, operational, economic or financial knowledge, information or data of any nature whatsoever relating to Work; all

analyses, compilations, forecasts, studies or other documents which contain or reflect any such information; and any other information or material which, by its nature, should reasonably be understood by Supplier to be proprietary or confidential.

- B. In the event that CEII (as defined in 18 CFR §388.113(c)(1)) and/or CII (as defined in 6 USC §131(3)) is to be provided to Supplier, Supplier shall comply with the requirements of the aforesaid and will execute a supplementary confidentiality agreement with Company prior to receipt of such information.
- C. Confidential Information shall not include the following:
- i. information that at the time of disclosure by Company is publicly available, or information that later becomes publicly available other than as a result of disclosure by Supplier;
  - ii. information received by Supplier on a non-confidential basis from a third party which, to the best of the Supplier's knowledge, did not acquire such information on a confidential basis either directly or indirectly from the Company; and
  - iii. information that the Supplier can demonstrate was independently developed by it or for it and not obtained, in whole or in part, from Company.
- D. Supplier agrees to keep confidential all Confidential Information and shall not, without Company's prior written consent, disclose to any third party such Confidential Information. Supplier shall limit the disclosure of the Confidential Information to only those of its employees and agents as is reasonably necessary to provide the Work after informing such employees and agents of the confidential nature of the Confidential Information and securing their agreement to act in accordance with the terms of this Article. Supplier shall use the Confidential Information solely for the purpose of providing the Work. Supplier shall not make any other use, in whole or in part, of any such Confidential Information without the prior written consent of Company. Supplier agrees that, in complying with its confidentiality obligations under this Article, Supplier shall use the same means it uses to protect its own confidential proprietary information, but in any event not less than reasonable means, to prevent the disclosure and to protect the confidentiality of the Confidential Information. Supplier agrees to take all reasonable steps to cause its employees and agents to observe the terms of this Article and to be responsible for any breach of this Article. Supplier may disclose Confidential Information to potential suppliers and subcontractors as necessary in connection with the Work, and all such suppliers and subcontractors shall be deemed Supplier's agents for all purposes hereof.
- E. After the completion of the Work, Supplier shall return to Company any and all Confidential Information upon written request, including all hardcopy originals, copies, translations, notes, computer generated reports, schematics, flowcharts, tape recordings, or any other form of said material, without retaining any copy or duplicate supplement thereof and shall promptly destroy any and all electronically stored information, and any and all written, printed or other material or information derived from the Confidential Information, and shall promptly provide attested certification from an authorized representative confirming such destruction.
- F. The obligations and commitments established by this Agreement shall remain in full force and effect (a) with respect to Confidential Information not constituting CEII/CII for a period of three (3) years from the date of disclosure, and (b) with respect to CEII/CII, until CEII/CII has been returned to Company and/or destroyed pursuant to this Article. However, notwithstanding the

return or destruction of documents, Supplier is obligated not to recreate, or share information that constitutes CEII which it has learned through the sharing or disclosure of such information.

- G. Supplier agrees that the Confidential Information disclosed pursuant to this Article is of a special, unique, extraordinary, and intellectual character and that money damages would not be a sufficient remedy for any breach of this Article and that specific performance and injunctive or other equitable remedies for any such breach shall be available to Company. If there is a breach, then Company shall be entitled, in addition to all other rights and remedies which it may have at law or in equity, to seek to have a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured and/or enjoining all persons involved from continuing the breach. Supplier also acknowledges that the interests of Company in such Confidential Information may be irreparably injured by disclosure. The remedy stated above may be pursued in addition to any other remedies applicable at law or equity for breach of this Article. The existence of any claim or cause of action which Supplier may have against Company shall not constitute a defense or bar to the enforcement of any of the provisions of this Article.

### **30. WARRANTY**

By accepting this Contract, Supplier hereby expressly warrants that all Work performed pursuant to this Contract for a period of one (1) year from the date of completion shall be in full conformity with the Contract; shall comply with all applicable Laws at the time of performance; shall be free from defects in design, material and workmanship; shall conform to the applicable specifications, instructions, drawings, data, and samples; shall be fit and sufficient for the purposes intended by Company; and shall be free from all liens and encumbrances. Said warranties shall be in addition to all other warranties, express, implied or statutory. Warranties shall survive acceptance of payment for any and all Work required pursuant hereto and shall run to Company. If Supplier's Work is defective, Supplier shall, at no cost to Company, do one of the following at Company's option: (a) immediately reperform the defective Work to the extent necessary to correct the deficiency therein and any resulting deficiencies in other Work of Supplier, and Supplier shall, at Company's option, either repair, restore or replace, F.O.B. the Work site and any equipment or structure damaged as a result of such defective Work or shall reimburse Company for such damage; or (b) pay Company damages in an amount sufficient to allow Company to engage a third party to remedy the defective Work, including any equipment or structure damaged as a result of such defective Work. In addition Supplier shall reimburse Company for any and all other damages and costs arising from Supplier's failure to perform in accordance with the standard set forth herein. In the event of a remedial action to correct defective Work as provided herein, the warranty period for that portion of the Work affected by such remedial action shall be one (1) year after completion of the remedial work.

### **31. WORK FOR HIRE**

All materials produced by Supplier for Company in connection with the Work are considered work made for hire and shall be deemed Company's property. Supplier agrees not to use or release to others any of such property for purposes other than the Work performed hereunder unless prior written consent to the contrary is given by Company. All originals of data, plans, specifications, computer programs, maps and drawings prepared and furnished by the Supplier which are not specifically prepared for use in the Work shall remain the property of the Supplier, but Company shall be provided copies of same without exception.

### **32. PAYMENT**

Unless otherwise mutually agreed in writing, payment of the undisputed amount of a valid invoice shall be made within thirty (30) days after date of invoice. Invoices may not be submitted prior to shipment of all of the material, equipment and/or performance of services to which they relate. Invoices shall be itemized to show separate charges for material and equipment supplied to Company, freight and/or other incidental charges.

### **33. FORMATION OF CONTRACT**

Supplier and Company shall be bound by this Contract and its terms and conditions when Supplier executes and returns the unaltered, Purchase Order acknowledgement. Alternatively, Company, at its sole option, may deem the Contract to be valid when Supplier renders any of the services or delivers any of the items required under the Contract.

### **34. GOVERNING LAW AND VENUE**

- A. This Contract will be governed by the laws of the State of South Carolina.
- B. In the event that the Company has its principal place of business in North Carolina, venue for any action arising out of this Contract that, for whatever reason is not resolved through arbitration, shall be resolved exclusively in the General or Superior Courts of Wake, Gaston or Buncombe Counties, North Carolina. In every other case, venue for any action arising out of this Contract that, for whatever reason is not resolved through arbitration, shall be resolved exclusively in the Circuit Court of Lexington County, South Carolina.

### **35. ASSIGNMENT**

Supplier shall not assign the Contract without the prior, written consent of Company. Supplier shall not assign any monies due or to become due to it hereunder without the prior, written consent of Company.

### **36. TERMINATION**

- A. Company may terminate this Contract for its own convenience, in whole or in part, at any time by written notice to Supplier. In the event of termination by Company for convenience, Company shall pay Supplier for actual costs incurred under this Contract up to the date of termination which Supplier cannot, despite reasonable efforts, avoid.
- B. Company may, by written notice to Supplier, terminate this Contract for cause if Supplier voluntarily files a petition in bankruptcy, is adjudicated as bankrupt in an involuntary bankruptcy proceeding, makes an assignment for the benefit of creditors, or has a receiver appointed for some or all of Supplier's property; if Supplier becomes involved in a merger, consolidation, or change of business form of if Supplier transfers substantially all of its assets to another person or entity; if Supplier fails to take action to cure a breach or default within the time specified in such notice or a reasonable amount of time if not specified; if Supplier refuses or fails to prosecute the Work or any part thereof with such diligence as will ensure its completion within the time specified or fails to complete said Work within such time; or if Supplier fails to satisfy a request of Company that Supplier demonstrate that it will be able to complete the Work and perform the Contract as provided in the Contract. In such event, Company may take over the Work and prosecute the same to completion by contract or otherwise, and Supplier shall be liable to Company for any excess cost occasioned Company

thereby; and Company may take possession of and utilize in completing the Work such materials, appliances and plant as may be on the site of the Work and necessary therefor. In the event of default by Supplier, Company shall retain any and all rights available to it under the law.

### **37. WAIVER**

The failure of Company to pursue any rights open to it by virtue of any breach of the Contract terms by Supplier shall not be construed as a waiver of any right by Company to exercise such rights at a later date for the same or any other breach of the Contract.

### **38. CHANGES, ALTERATIONS AND MODIFICATIONS**

- A. Company may, at any time, by written order to Supplier and without notice to Supplier's sureties or assigns, make changes in the Work, the drawings, the specifications or other descriptions herein, or the time of completion. The written order authorized by this Article shall be effective notwithstanding the absence of Supplier's formal written acceptance thereof. Promptly upon the receipt of the details of any such changes, Supplier shall either advise that the change will not affect its costs, or furnish: (1) a breakdown of estimated cost and changes in the Contract price attributable to the change in the Work (along with supporting documentation), and (2) a statement of any necessary changes in the time of completion. Supplier's failure to advise Company within ten (10) days of the effect of any change hereunder shall constitute Supplier's consent to conform to the change without increase in the Contract price or delay in the time of completion and without change in the other terms and conditions of the Contract. If a change in Contract price or time of completion is requested by Supplier, Supplier and Procurement Agent shall negotiate an equitable adjustment to the affected parts of the Contract. Company shall have access to and the right to audit Supplier's records for the purpose of verifying to Company's reasonable satisfaction the accuracy of Supplier's assessment of changes in cost and/or completion date. Based on its review of the verified costs and expected delays, Company may elect not to proceed with the requested changes.
- B. In addition to Company required changes as described in the preceding subparagraph, Supplier shall notify Company in writing as soon as possible after determination of any changes in the scope of Work necessary or advisable to properly or more effectively perform the Work. Company shall advise Supplier if it agrees that any such changes were outside of the agreed upon scope of Work. If change accepted by Company causes a material increase or decrease in costs, then an equitable adjustment of the Contract price herein to be paid to Supplier shall promptly be negotiated by Supplier and the Procurement Agent and incorporated in a revision to the Contract. Such adjustments in price shall be determined based on changes in costs to Supplier directly related to the change in the scope of the Work. Supplier shall furnish the Procurement Agent a detailed breakdown of the changes in cost accompanied by sufficient supporting documentation. Company shall have access to and the right to audit Supplier's records for the purpose of verifying to Company's reasonable satisfaction the accuracy of Supplier's assessment of changes in cost.
- C. Except in situations where life or property may be endangered, no additional work or change involving time or cost not provided for in the Contract shall be performed unless pursuant to a Contract revision which will state the location and character of the Work, the amount and method of compensation, and changes in any of the other Contract terms and conditions which may be affected. No claim for an addition to the Contract price or an extension of the time of completion will be valid unless incorporated in such a revision signed by Company.

### **39. KICKBACKS AND GRATUITIES**

Supplier and subcontractors are prohibited from providing, soliciting or accepting any kickback. Suppliers and subcontractors are prohibited from offering or giving a gratuity to an officer, official or employee of the Company. Supplier shall promptly report any violation or suspected violation to Company's Director – Corporate Security and Claims.

### **40. CREDITWORTHINESS**

This Contract is conditioned upon and subject to Supplier maintaining its financial creditworthiness required to perform its responsibilities under the Contract. At any time during the Contract, Company may request financial information to support its financial due diligence procedures. Supplier agrees to assist in this reasonable financial review. If reasonable grounds for insecurity of payment and/or performance arises or if Company believes in good faith that the creditworthiness of Supplier has been diminished, Company may demand satisfactory adequate assurance of payment and/or performance from Supplier.

### **41. RIGHT OF OFF-SET**

Supplier acknowledges and agrees that Company has and reserves the right to off-set any amount(s) owed by Company to Supplier for Work performed in accordance with this Contract by any amount(s) which Company otherwise regards as payable by Supplier to Company for which Company has legal and/or equitable grounds for recovery against Supplier and as to which demand therefor has previously been made by Company. This right to off-set includes any amounts owed by Company to Supplier under this Contract, any other agreements with Supplier, and any agreements with any affiliates of Supplier which include a provision similar to this Article.

### **42. SHIPMENT**

Unless otherwise specified in the Contract, all goods are shipped FOB Destination. Unless otherwise specified in the Contract, title and the risk of loss or damage to the goods supplied and Work performed shall pass to Company when such goods have been delivered to and Work accepted by Company. All transportation costs resulting from deviation from shipping instructions and any other costs incurred by Company because of Supplier's non-compliance with the terms and conditions, including, but not limited to shipping deadlines, of the Contract shall be charged to Supplier. Company shall not be charged for packing or drayage unless otherwise indicated on the face of the Contract.

### **43. ENTIRE AGREEMENT**

The Contract, together with all referenced specifications, drawings and documents, which by this reference are all made a part hereof, constitute the entire agreement between the parties, and all prior negotiations, proposals, and writing pertaining to the Contract, or the subject matter hereof, are superseded hereby. Unless specifically incorporated herein by reference within the body of the Purchase Order, reference to Supplier's quotation, bid, or proposal does not imply and shall not constitute acceptance of any terms, conditions, or instruction contained in such document unless such terms, conditions or instructions are more favorable to Company than those contained in the Contract. Any invoice, acknowledgment or other communication issued by Supplier in connection with the Contract shall be construed to be for record and accounting purposes only, and no terms and conditions stated in such communication shall be applicable to the Contract and they shall not be considered to be Supplier's exceptions to the provisions of the Contract.

#### **44. TIME OF THE ESSENCE**

TIME OF DELIVERY IS OF THE ESSENCE FOR THIS CONTRACT. Supplier shall promptly notify Company of any actual or anticipated delay in performance and take all reasonable steps to avoid or end delays without additional cost to Company.

#### **45. ARBITRATION**

Any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall be conducted in accordance with the Federal Arbitration Act, 9 U.S.C. Section 1 *et seq*, and the venue for the arbitration shall be Columbia, South Carolina.

#### **46. SOFTWARE**

- A. In the event software is procured through the submission of a Purchase Order, the parties agree that any pre-printed terms, shrink-wrap terms or click agreement(s) shall not be applicable, but the terms of this Contract shall apply.
- B. Company shall be granted a non-exclusive, fully paid, perpetual and irrevocable license to use the software for any business purpose. The license is deemed to be an enterprise license for Company and its Affiliates.
- C. Supplier warrants that the software shall operate per its intended purpose and that Supplier has the right to grant a license to use the software and that the software is free of all liens, claims, encumbrances, and other restrictions and without otherwise violating any rights of any third party, including any intellectual property rights, patent, copyright, trade secret or other proprietary rights.
- D. The parties expressly disclaim and waive the application of the Uniform Computer Information Transactions Act (“UCITA”) to this agreement and any claims arising under or related to this Agreement.
- E. Supplier shall provide to Company, upon the delivery of the Software, all published documentation and specifications that are necessary to enable Company to operate the software. Company shall have the right to copy all documentation.

ATTACHMENT I

SCANA CORPORATION
CONTRACTOR AUTHORIZATION FORM

Revised: 09/10/09

Physical Security

Check One Company: [ ] CGT [ ] PSNC Energy [ ] SCANA Services [ ] SCE&G [ ] SCANA Energy Marketing
[ ] SCANA Service Care [ ] SCANA Communications

Check One FERC Classification: [ ] CONTR No-Conduit [ ] CONTR Marketing Affiliate [ ] CONTR Transmission

CONTRACTOR COMPANY INFORMATION (CONTRACTOR COMPLETE THIS SECTION)

HAVE YOU EVER BEEN EMPLOYED OR CONTRACTED BY SCANA/SCE&G/PSNC: [ ] yes [ ] no CONTRACTOR SCANA ID#: \_\_\_\_\_

LEGAL LAST NAME: \_\_\_\_\_ CONTRACTOR'S COMPANY NAME: \_\_\_\_\_

LEGAL FIRST NAME: \_\_\_\_\_ CONTRACTOR'S MANAGER NAME: \_\_\_\_\_

PREFERRED NAME: \_\_\_\_\_ CONTRACTOR'S COMPANY TELEPHONE: \_\_\_\_\_

MIDDLE INITIAL: \_\_\_\_\_ DOB: \_\_\_\_\_ CONTRACTOR'S COMPANY ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

By signing below, I hereby acknowledge and agree that I am either an employee or contractor of the contracting entity named above, which is an independent contractor for SCANA and/or one of its affiliates, that I am not an employee of SCANA nor any of its affiliates, and that I am not eligible to participate in any employee benefit plan sponsored by SCANA and/or any of its affiliates.

Upon receipt of this ID badge, I understand that I must: Wear it so that it is easily visible while performing work for the company, not loan it to another person for any reason, report its loss immediately to Corporate Security Badging at 803-217-7834, and surrender it promptly when requested by the company. There is a \$25.00 charge for each lost badge. Make check or money order payable to: SCE&G

Contractor Signature: \_\_\_\_\_ Home or Cell Telephone#: \_\_\_\_\_ Date: \_\_\_\_\_

SCANA DEPARTMENT INFORMATION (SCANA REPRESENTATIVE COMPLETE THIS SECTION)

SCANA COMPANY EXTENSION: \_\_\_\_\_ MAIL CODE: \_\_\_\_\_

SCANA SUPERVISOR NAME: \_\_\_\_\_ EMPLOYEE ID #: \_\_\_\_\_

SUPERVISOR TELEPHONE: \_\_\_\_\_ SCANA DEPARTMENT ID (COST CENTER #): \_\_\_\_\_

SCANA DEPARTMENT NAME: \_\_\_\_\_ SCANA WORK LOCATION: \_\_\_\_\_

SCANA Supervisor Signature: \_\_\_\_\_ Employee ID#: \_\_\_\_\_ DATE: \_\_\_\_\_

CORPORATE SECURITY (CORPORATE SECURITY TO COMPLETE THIS SECTION)

BACKGROUND CHECK CLEARED: [ ] yes [ ] no AUTHORIZED SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

Processed by: \_\_\_\_\_ Employee ID#: \_\_\_\_\_ Date: \_\_\_\_\_

Contractor Badge #: \_\_\_\_\_ Contractor ID#: \_\_\_\_\_

Privacy Statement - SCANA and its subsidiaries respect your privacy and limits the collection of personally identifiable information to what is needed to fulfill legal and/or regulatory requirements and/or to properly identify and qualify persons coming on company property and/or performing work for SCANA. SCANA does not sell or provide your personally identifiable information to unaffiliated companies for commercial purposes unrelated to SCANA's businesses.