

## **MASTER SERVICES PROCUREMENT AGREEMENT**

THIS MASTER SERVICES PROCUREMENT AGREEMENT is made this 1<sup>st</sup> day of January, 2016 by and between **IBERDROLA USA MANAGEMENT CORPORATION**, a Delaware Corporation, with offices located at 89 East Avenue, Rochester, New York 14649 (hereinafter, "IUMC") and [REDACTED] a Minnesota limited liability company, with offices located at 2 [REDACTED] [REDACTED] (hereinafter, "Supplier" or "Vendor"). IUMC and Supplier may be referred to individually as a "Party" and collectively as the "Parties."

### **WITNESSETH:**

**WHEREAS**, IUMC is authorized to assist the utility operating company subsidiaries of Iberdrola USA identified in Schedule A, attached hereto and made part hereof, in procuring certain services that they may require from time to time in the operations of their respective businesses, including the services described in Schedule B, attached hereto and made part hereof (the "Services"); and

**WHEREAS**, the Supplier states that it is an established and well-known provider of the Services possessing the skills, qualifications, and experience necessary to perform and manage such Services in an efficient, cost-effective, and controlled manner, with a high degree of quality and responsiveness, and that it has successfully performed similar services for other customers and is willing to provide the Services to the utility operating company subsidiaries of Iberdrola USA in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, in reliance upon such statements and following its review of Supplier's proposal and negotiation of business terms, IUMC has selected the Supplier as a vendor-of-choice for the Services, which shall be procured and awarded in accordance with this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the Supplier and IUMC hereby agree as follows:

### **1. DEFINITIONS**

As used in this Agreement:

- (a) "Affiliate" shall mean, with respect to a Party, any other entity Controlling, Controlled by, or under common Control with such Party. The term "Control" and its derivatives shall mean with regard to any entity, the legal, beneficial, or equitable ownership, directly or indirectly, of fifty percent (50%) or more of the capital stock (or other ownership interest, if not a corporation) of such entity ordinarily having voting rights.
- (b) "Company" shall mean the Affiliates of IUMC specified in Schedule A, attached hereto and made part hereof.
- (c) "RFP" shall mean a request for proposal for the Services which shall include a reasonably detailed description of the Services required by the Company(ies).

- (d) "Services" shall mean the services described in Schedule B, attached hereto and made part hereof.
- (e) "Terms and Conditions" shall mean the terms and conditions governing the performance of the Services and related matters pursuant to a Purchase Order, the form of which is set forth in Schedule C, attached hereto and made part hereof.
- (f) "Purchase Order" shall mean a purchase order issued by IUMC or a Company in accordance with this Master Agreement.
- (g) The "Effective Date" shall mean January 1, 2016.
- (h) "Term" shall mean the term of this Master Agreement, as extended or terminated early in accordance with this Master Agreement.
- (i) "Small Business Concern" as defined by the Small Business Administration, shall mean a business that is independently owned and operated and which is not dominant in its field of operation. The law also states that in determining what constitutes as small business, the definition will vary from industry to industry to reflect differences accurately.

## 2. PROCESS FOR AWARDING SERVICES

- 2.1 IUMC agrees that, upon a request made to IUMC by a Company for assistance in procuring Services, IUMC shall, on its own or with the assistance of the Company(ies) requiring the Services, take either of the steps delineated in subsections (a) or (b) toward procuring Services from the Supplier:

(a) Issuance of Purchase Order. IUMC or the Company(ies) requesting the Services shall issue to the Supplier duplicate originals of a Purchase Order for the Services incorporating: (i) a scope of work consistent with the standards set forth in Schedule B, (ii) the Terms and Conditions set forth in Schedule C, and (iii) the pricing terms set forth in Schedule D. Upon receipt of an authorized Purchase Order, Supplier shall commence performance of the Services in accordance with the terms therein.

OR

(b) Issuance of an RFP. (i) IUMC or the Company(ies) requesting the Services shall issue an RFP to the Supplier. Within the time period specified in the RFP, Supplier shall issue a written proposal to IUMC, or if so directed, to the Company specified in the RFP, setting forth: (1) a detailed description of the Services to be provided by the Supplier, consistent with the scope and other requirements specified in the RFP, and (2) Supplier's fees and charges for completing the Services, which Supplier warrants will be calculated in accordance with the pricing terms set forth in Schedule D, attached hereto and made part hereof.

(ii) Within the time period specified in the RFP, IUMC and/or the Company(ies) shall review the Supplier's proposal. If IUMC and the Company(ies) requiring the Services, in their sole and absolute discretion, determine that they wish to award a contract for Services and thereupon select the Supplier's proposal, the Company shall forward duplicate original Purchase Orders for the Services (conforming with the requirements of Section 2.1(a), above, but also incorporating the Supplier's

proposal) to the Supplier at the address specified in Section 6.1, below. Upon receipt of an authorized Purchase Order, Supplier shall commence performance of the Services in accordance with the terms therein.

**2.2** (a) Notwithstanding anything to the contrary in this Agreement or in any Purchase Order or RFP issued hereunder, IUMC makes no representation or warranty that IUMC or any Company(ies) will issue any Purchase Orders or RFP's, or any minimum dollar volume of Purchase Orders or RFP's, during the Term of this Master Agreement. IUMC or the Company(ies) requesting Services may terminate a Purchase Order or RFP for such Services at any time, without penalty or other obligation, prior to commencement of performance of the Services by Supplier in accordance with the terms therein.

(b) Supplier acknowledges and agrees that the issuance of an RFP, Purchase Order, or other document pursuant to this Article 2 by IUMC or any Company shall not constitute an offer by IUMC or any Company to purchase Services, and that an enforceable agreement for Services shall result only when an authorized Purchase Order for such Services, processed in accordance with this Article 2, is issued to Supplier by IUMC or a Company and accepted by the Supplier.

(c) Supplier further acknowledges that each Purchase Order processed in accordance with this Article 2 and issued to Supplier by IUMC or a Company and accepted constitutes a separate and distinct contract for the particular Services set forth in the Purchase Order and shall be governed by the following documentation:

- (i) The Purchase Order (exclusive of its pre-printed terms and conditions);
- (ii) The Terms and Conditions attached hereto as Schedule C, as they may be amended or modified for the particular Purchase Order;
- (iii) The Scope of Services document attached hereto as Schedule B, as it may be amended, modified or supplemented for the particular Purchase Order; and
- (iv) This Agreement, including all Schedules other than those described in subsections (i), (ii), and (iii) above.

In the event of any inconsistency among the aforementioned documentation, the order of precedence shall be as set forth in subsections (i), (ii), (iii), and (iv), above.

### **3. PRICING; PAYMENT; DISCOUNTS AND REFUNDS**

**3.1** (a) Supplier agrees that pricing, fees, pass-throughs, and other charges set forth in Schedule D will be incorporated into and used as the basis for all pricing, fees, pass-throughs, and other charges in: (i) any proposal issued by Supplier hereunder, and/or (ii) any Purchase Orders pursuant to this Master Agreement.

(b) Supplier agrees that the pricing terms set forth in Schedule D shall be fixed for the time period specified in such Schedule and shall not be subject to increase except as expressly specified in such Schedule.

**3.2** (a) Supplier agrees that, in calculating any discounts or adjustments to prices, fees, pass-throughs, and charges set forth in Schedule D that are based upon volumes or quantities of Services awarded to

Supplier, Supplier shall include in such calculation the volumes or quantities of Services for all Purchase Orders issued by IUMC or any Company(ies) during the relevant time period.

(b) Within thirty (30)-days following each anniversary of the Effective Date of this Master Agreement, Supplier shall forward to IUMC a draft reconciliation statement showing Supplier's calculation of any rebates or refunds payable as a result of the total value of all Purchase Orders for Services executed by the Company(ies) with the Supplier during the preceding calendar year. IUMC shall review the reconciliation statement and will notify Supplier of any comments they may have with respect thereto within thirty (30)-days of their receipt thereof. Supplier shall pay to IUMC the undisputed portion of any rebates or refunds due the Company(ies) under executed Purchase Orders for Services within five (5) business days following the earlier of: (i) Supplier's receipt of the comments of IUMC and Company(ies), and (ii) the thirty (30) day period referenced in the immediately preceding sentence.

#### **4. NO GUARANTY; HOLD HARMLESS**

Supplier acknowledges and agrees that, notwithstanding anything to the contrary contained in this Master Agreement, any subsequently issued RFP, or in any Purchase Order between Supplier and any Company(ies), that with respect to any Purchase Order for Services issued by any Company(ies) pursuant to this Agreement:

(a) All charges, fees, and expenses, as well as any credits, refunds, or rebates, resulting from Services rendered by Supplier pursuant to such Purchase Order shall be solely for the account of such Company(ies), and neither IUMC nor any other Company(ies) shall be considered a guarantor or surety of any charges, fees, and expenses arising under such Purchase Order;

(b) All communications, notices, invoices, and reports resulting from Services rendered by Supplier pursuant to such Purchase Order shall be directed to the representative(s) of the Company(ies) identified in such Purchase Order;

(c) Supplier covenants not to sue IUMC or any other Company(ies) not issuing a particular Purchase Order in question, for any charges, fees, expenses, or claims arising from or attributable to Services rendered by Supplier pursuant to such Purchase Order; and

(d) Supplier shall hold IUMC and the other Company(ies) not issuing a particular Purchase Order in question and their respective employees, agents, officers, shareholders, and directors harmless from and against any and all damages or liabilities arising from or attributable to, directly or indirectly, the performance, non-performance, or other acts of the Company(ies) and its employees, agents, or representatives pursuant to such Purchase Order.

#### **5. TERM**

**5.1** This Master Agreement shall remain in effect until terminated according to section 5.2 below.

**5.2** (a) IUMC may terminate this Master Agreement at any time and for any or no reason upon one hundred eighty (180) days' prior written notice. Upon the effective date of termination specified in IUMC's termination notice: (i) all RFP's, proposals, and Purchase Order for which Supplier has not begun

to deliver the Services shall be deemed canceled, unless otherwise agreed in writing by the Company(ies) requesting or issuing such RFP's, proposals, and/or Purchase Orders, and (ii) this Master Agreement shall be terminated without liability or obligation to the Parties, except for any liabilities and obligations arising under any Purchase Orders for which Supplier has already begun to provide Services. IUMC shall have no liability for any costs, expenses, or other fees incurred by Supplier in connection with any RFP's, proposals, or Purchase Orders that are in process but for which provision of Services has not begun upon the effective date of termination of this Master Agreement by IUMC.

(b) Termination of this Master Agreement by IUMC shall not effect, or result in, termination of any Purchase Orders issued by IUMC or a Company and for which Supplier has begun to deliver Services prior to the effective date of termination set forth in IUMC's termination notice; provided, however, that this subsection (b) shall not constitute a waiver or relinquishment of any right of termination of any Company pursuant to the terms and conditions of such Purchase Orders.

(c) Supplier may terminate this Master Agreement or any part of the Services, without cause at any time and for any or no reason, upon not less than 180 days' prior written notice. Supplier agrees to provide reasonable transition services for up to sixty (60) days after the effective date of termination at pricing provided for in the Agreement or any applicable Statement of Work. For the avoidance of doubt, the provisions of this Agreement governing the Services, including, without limitation, the provisions regarding data security and performance metrics, shall continue to apply for those transition services.

## **6. GENERAL**

- 6.1** Notices. All notices, requests, demands, and determinations under this Master Agreement shall be in writing and shall be deemed duly given: (i) when delivered by hand, (ii) one (1) day after being given to an express courier with a reliable system for tracking delivery designating overnight delivery, or (iii) six (6) days after the day of mailing, when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid, and addressed to Party at the address(es) specified in Schedule F. A Party may from time to time change its address or designee for notification purposes by giving the other prior written notice of the new address or designee and the date upon which it will become effective.
- 6.2** Governing Law. This Master Agreement and performance under it shall be governed by and construed in accordance with the laws of State of New York; as such laws are applied to contracts between residents that are entered into and to be performed entirely within New York.
- 6.3** Binding Nature and Assignment. This Master Agreement shall be binding on the Parties hereto and their respective successors and assigns. Neither Party may, or shall have the power to, assign this Agreement without the prior written consent of the other, except that each Party may assign this Master Agreement and its rights and obligations hereunder to an Affiliate without the approval of the other Party, but on prior written notice.
- 6.4** Entire Agreement: Amendment. This Master Agreement, including any Schedules referred to herein and attached hereto, each of which is incorporated herein for all purposes, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to the subject matter contained in this Master Agreement. No

change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the Party against which such change, waiver, or discharge is sought to be enforced.

- 6.5 Counterparts. This Master Agreement may be executed in several counterparts, all of which taken together shall constitute one single Agreement between the parties hereto.
- 6.6 Headings. The article and section headings and the table of contents used herein are for reference and convenience only and shall not enter into the interpretation
- 6.7 Relationship of Parties. Supplier is not an agent of IUMC and has no authority to represent the IUMC as to any matters, except as expressly authorized in this Master Agreement.

IN WITNESS WHEREOF, IUMC and Supplier have each caused this Agreement to be signed and delivered by its duly authorized representative as of the date first given above.

IUMC

Signature

Kevin E. Walker

Print Name

COO

Title

1-29-15

Date

IUMC

Signature

Jose Maria TORRES

Print Name

CFO

Title

2/1/16

Date

**SCHEDULES:**

Schedule A: Companies  
Schedule B: Services  
Schedule C: Terms and Conditions  
Schedule D: Pricing Terms  
Schedule E: Special Conditions  
Schedule F: Notices  
Schedule G: Insurance Requirements

**SCHEDULE A**

**Companies**

Central Maine Power Company  
Augusta General Office  
83 Edison Drive, Augusta, Maine 04336

New York State Electric & Gas Corporation  
18 Link Dr  
Binghamton, NY 13904

Rochester Gas and Electric Corporation  
89 East Avenue  
Rochester, New York 14649



## SCHEDULE B

### **1. SERVICES**

#### **1.1 General**

- (a) **Scope of Services.** Each Company Affiliate provides utility related credit and collection as well as service initiation and termination services for its customers ("Customer(s)") and the Customers' related utility accounts (the "Accounts"). These services include, but are not limited to, handling customer requests to turn on and off services (also known as move in/move out or "MIMO"), receiving and responding to Customer inquiries regarding payment and credit for the Company Affiliate's services, and contact Customers in order to provide credit and other notices required by law or regulation. The Company Affiliates desire to outsource up to 100% of such services for the Accounts to be performed and managed by an accountable third party skilled in the performance and management of such services.
- (b) **Procurement Process.** IUMC has identified Supplier as such a third party and has entered into a Master Agreement with Supplier to facilitate the procurement of Services (as further described in Schedule B, Section 1.2 (Services to be Provided) in this Schedule B) by a Company Affiliate. A Company Affiliate, at its sole discretion, may request Supplier pursuant to Schedule A, Section 2.1 (issuance of a Purchase Order) of the Master Agreement to provide the Services. A Company Affiliate shall procure Services in accordance with the terms and conditions of the Master Agreement. Each Company Affiliate may request Supplier pursuant to the process set forth in Schedule B (Additional Services) of the Master Agreement to provide Additional Services, which include but are not limited to making and/or receiving additional calls outside of the scope of those Services Provided specified below. Supplier and Company Affiliate may be referred to individually as "Party" and collectively as the "Parties."
- (c) **Agreement between Supplier and Company Affiliate.** The Supplier shall provide directly or indirectly through its Affiliate the Services to a Company Affiliate pursuant to the Services Provided entered into by Supplier and Company Affiliate, as provided in Section 2.1 (Issuance of a Purchase Order) of the Master Agreement. Company Affiliate shall provide Supplier with live access to the NYSEG and RGE Customer Care Systems ("CCS") as well as the CMP Customer Service System ("CSS"), access to additional programs such as payment platform and identity verification applications, company website applications as needed and written credit and collection and service initiation procedures. Company Affiliate may perform substantial remote call monitoring and periodic on-site visits to verify that the calls reflect the quality and content desired by Company Affiliate. All Services performed by Supplier will adhere to the Company Affiliate's standards based upon training and guidelines provided to Supplier by Company Affiliate in writing before the date of execution of any Services Provided, in terms of policy, procedure, quality, regulatory compliance, and other legal requirements. The success of the partnership will be measured by meeting service goals as set forth in Schedule E and monitored by Company Affiliate.
- (d) **Location.** The Supplier shall provide dedicated personnel at the Bethlehem, PA and Houston, TX locations, unless otherwise agreed upon with Company Affiliate.

#### **1.2 Services to Be Provided**

- (a) Supplier will provide Company Affiliate with Supplier Personnel (as hereafter defined) for telephone call services ("Service") to provide dedicated customer service/collections telephone calls and handle Company Affiliate's inbound and outbound credit and collection and MIMO telephone calls. Supplier may provide "multi-OpCo skilled" representatives as

approved by Company Affiliate. Services to be provided during such telephone calls include but are not limited to:

- (i) Negotiating payment arrangements;
- (ii) Completing financial statements and determining eligibility for payment arrangements;
- (iii) Providing customer rights ("Customer Rights") as required by the utility regulatory body of the jurisdiction in which the Customers are located ("Utility Commission") rules and regulations:
  - (a) For New York Customers: The New York Utility Commission requires that during the period from November 1<sup>st</sup> to April 15<sup>th</sup> ("Cold Weather Period") additional special efforts shall be made to provide oral notice of the New York Customer Rights, to all residential Customers as required by the Home Energy Fair Practices Act ("HEFPA") prior to disconnecting heat-related service. Supplier shall attempt to contact, by telephone, the Customer, or an adult resident of the Customer's premise at least seventy-two (72) hours before the intended termination or disconnection of heat-related services, to provide notice of the New York Customer Rights that in the event it is determined that a resident at Customer's premises is likely to suffer a serious impairment to health or safety as a result of heat-related services being terminated, then such heat-related services shall not be terminated;
  - (b) For Maine Customers: Supplier shall provide an easily understandable oral notice of the Maine applicable Customer's Rights.
- (iv) Attempting telephone contact upon (i) a customer missing a payment or (ii) the issuance of a disconnect notice;
- (v) Referring Customers to various state assistance agencies;
- (vi) Handling calls informing of medical emergencies;
- (vii) Initiating and scheduling service order for utility service reconnections;
- (viii) Accepting phone payments – checks, debit/credit cards;
- (ix) Updating Customer mailing addresses and telephone numbers;
- (x) Providing account balance information;
- (xi) Reviewing financial statement documentation;
- (xii) Updating Customer information other than mailing address or telephone number;
- (xiii) Offering and setting up budget billing, e-bill, and autopay;
- (xiv) Informing Customer about self-serve options; (Including but not limited to meter reading, payments, meter read reminder, budget billing, autopay, outage alerts, account balance detail)
- (xv) Processing turn-on and turn-off requests;
- (xvi) Verifying special protections of Accounts; and
- (xvii) Other – based upon individual Company Affiliate need.
- (b) At any point in time a Company Affiliate may request Back Office work to be completed by the Supplier. Prior to any such work being transferred the Company Affiliate and Supplier shall negotiate and agree upon rate for such services.
- (c) Virtual Hold or other similar technology that offers customers a return call option rather than wait on hold for a representative

As set forth in Table 1, the Services shall not include the types of telephone calls for the identified Company Affiliates as indicated by an "X". Supplier shall refer all other types of telephone calls not included within the Services described above and/or all telephone calls as listed in Table 1 back to the Company Affiliate to be answered and handled, unless mutually agreed upon by Supplier and Company Affiliate. Company Affiliate shall provide Supplier with a number for such call transfers.

TABLE 1			
Call Type	NYSEG	RG&E	CMP
Service Initiation/Termination (aka Move In/Move Out or MIMO)	X*		
Billing/Usage Inquiries	X	X	X
New Construction/Upgrades/Demolition	X	X	X
Meter Readings	X	X	X
Final Collections After Referral to Third Party Collection Vendor	X	X	X
Automated Meter/Smart Meter/AMI Meter Inquiries			X
Commercial MIMO	X		X
Payment Disputes	X	X	X
Bankruptcy	X	X	X
Electric/Gas Emergency	X	X	X

*\*Upon mutual agreement between Supplier and Company Affiliate and an executed Supplement as defined in Article 6 of Schedule C, Supplier will provide Company Affiliate with Service to provide dedicated customer service telephone calls and handle Company Affiliate's inbound and outbound MIMO telephone calls for NYSEG at the same pricing that was proposed for RGE.*

- 1.3 Hours of Operation/Days of Week.** Supplier will perform the Services during the following opening hours to closing hours ("Normal Business Hours") and days ("Normal Business Days") of operation as set forth in Table 1 below. All hours listed in Table 1 are Eastern Standard Time. If necessary, a Company Affiliate may change the Hours of Operation to meet business need as mutually agreed upon with Supplier.

TABLE 1			
Company Affiliate	Normal Business Days*	Opening Hours	Closing Hours**
NYSEG	Monday - Friday	7:00 AM	7:00 PM
	Holidays worked	TBD	TBD
RG&E	Monday - Friday	7:00 AM	7:00 PM
	Holidays worked	TBD	TBD
CMP	Monday - Friday	7:30 AM	6:00 PM
	Holidays worked	TBD	TBD
* A Company Affiliate may request some Saturday calling operations, 8:00 AM - 4:30 PM, based upon business need			
** A Company Affiliate may request some calling operations until 9:00 PM, Monday - Friday, based upon business need			

- 1.4 Supplier will provide Supplier Personnel to perform Services on any Company Affiliate observed holiday ("Observed Holiday") as set forth in Tables 1, 2 and 3 below, if such Observed Holiday falls on a Normal Business Day for such Company Affiliate. Company Affiliate shall provide specific dates associated with given Observed Holidays to Supplier on an annual basis. A Company Affiliate may request additional holiday staffing based upon business need. For New York State, there is a disconnect moratorium in effect during the two weeks surrounding Christmas. Customer Affiliate shall provide the disconnect moratorium schedule to Supplier on an annual basis.

TABLE 1			
NYSEG Observed Holidays*			
New Year's Day	Independence Day	Thanksgiving Day	Christmas Day
Good Friday	Labor Day	Day After Thanksgiving	New Year's Eve Day**
Memorial Day	Veteran's Day	Christmas Eve Day*	
* If Christmas Eve Day falls on a Monday - Friday, Supplier shall provide Supplier Personnel to perform Services at least four (4) hours			
** If New Year's Eve Day falls on a Monday - Friday, Supplier shall provide Supplier Personnel to perform Services at least four (4) hours			

TABLE 2			
RG&E Observed Holidays*			
New Year's Day	Independence Day	Thanksgiving Day	Christmas Day
Memorial Day	Labor Day	Day After Thanksgiving	

TABLE 3			
CMP Observed Holidays*			
New Year's Day	Independence Day	Veteran's Day	Day After Thanksgiving
Memorial Day	Labor Day	Thanksgiving Day	Christmas Day

*\*In all cases, a Company Affiliate may request Observed Holiday calling operations, based upon business need.*

## 2. **TRAINING**

### 2.1 **Trainer Certification**

#### (a) **Initial Company Affiliate Trainer Certification**

- i. Trainer attends two (2) Company Affiliate led training sessions ("Train the Trainer")
- ii. Trainer must successfully complete end of training assessment with a score of 90.00% or higher
- iii. Trainer facilitates full New Hire Class with Company Affiliate in-classroom observation
- iv. Determination of Initial Trainer Certification will be made upon the completion of Company Affiliate observation and approval
- v. Once full Certification has been granted, Trainer may train any material to agents with the understanding that further Course Certification may be required for certain seasonal training or process/procedure changes
- vi. Company Affiliate and Supplier will mutually agree upon the number for dedicated trainers required for initial implementation and additional training required upon a Company Affiliate's transition to a new customer service system ("IUSA Customer SmartCare transition").

#### (b) **Additional Trainer Staff Certification, as needed**

- i. Trainer observes full New Hire class as learner/participant
- ii. Trainer must successfully complete end of training assessment with a score of 90.00% or higher
- iii. Trainer co-facilitates full New Hire class with a Certified Trainer
- iv. Trainer completes solo New Hire Class with observation by either Supplier Certified Trainer or Company Affiliate, as mutually agreed upon.

It is highly recommended that all Training Staff answer a minimum of eight (8) hours of Inbound telephone calls per month and receive a passing Quality Assurance score to continue as a Trainer.

In all cases, Company Affiliate reserves the right to request that a Trainer is deemed unqualified and be immediately removed from facilitating training classes.

### 2.2 **Customer Service Representative Certification**

Supplier will train each employee, management, administrative personnel, and technical staff that shall perform the Services ("Supplier Personnel") in a manner jointly developed and agreed to in writing by Supplier and the Company Affiliate. Supplier Personnel must complete training and pass certain training tests ("New Hire Tests") as provided by Company Affiliate (training and New Hire Tests are collectively the "Certification Process"), at which time the Supplier Personnel shall

be considered a customer service representative ("CSR") eligible to perform the Services for a Company Affiliate.

- (a) Company Affiliate classroom, instructor led/hands-on training will be conducted over a two (2) to six (6) week period. During such time, training hours will be dedicated strictly to that of the Company Affiliate's policy, procedures and computer system training.
- (b) "On-the-Job" Training (OJT) will be considered an extension of Classroom Training, no less than two (2) weeks, answering "live production" customer calls.
- (c) Any Supplier orientation or training must be completed prior to the commencement or after the completion of the Company Affiliate classroom training, at no cost to Company Affiliate.

### **2.3 Training for CMP**

- (a) CMP will provide Supplier appropriate training regarding the manner in which Supplier is expected to provide Services, including training in corporate culture, internal policies, procedures, rules and regulatory requirements, and systems ("CMP Training"). Thereafter, Supplier shall be responsible for the hiring and training of Supplier Personnel in a manner jointly developed and agreed to in writing by Supplier and CMP. Supplier Personnel must satisfactorily complete the CMP Certification Process prior to performing the Services.
- (b) Train the Trainer. CMP shall provide a minimum of one (1) subject matter expert ("CMP Trainer") who will provide training ("Train-the-Trainer Training") to a minimum of one (1) Supplier Personnel who shall be the designated by Supplier as a Supplier trainer ("Supplier Trainer"). CMP shall develop and maintain a checklist of all training completion requirements for a Supplier Trainer to complete CMP Train-the-Trainer Training and shall, in its sole reasonable discretion, certify that the Supplier Trainer has satisfactorily completed the CMP Train-the-Trainer Training and be considered a Supplier Trainer eligible to train other Supplier Personnel ("CMP Certified Trainer"). Supplier shall maintain a minimum of one (1) CMP Certified Trainer, dedicated to the CMPS's Services, on staff at all times. The CMP Certified Trainer shall be responsible for conducting the CMP Training to Supplier Personnel, including all new or seasonal hires.
- (c) CMP agrees to provide a designated point of contact ("POC") for all CMP Training issues that arise. Supplier agrees to notify CMPS's POC of all training plans.
- (d) The Supplier shall provide CMP with a minimum of two (2) weeks prior notice to conducting a new hire training class. Supplier shall submit to Company Affiliate the completed Iberdrola USA – Supplier Background Check, Schedule H, for each Supplier Personnel no less than two (2) weeks prior to the commencement of Training.
- (e) CMP shall provide CMP Training material and Supplier agrees to maintain, and when necessary edit CMP Training material and provide such material to CMP upon CMP's reasonable request. CMP core Training material will be maintained by the Company Affiliate and provided to the Supplier as needed. In the event the Supplier creates additional training material, be it written, electronic, video, etc, such training shall be approved by the Company Affiliate POC prior to delivery.
- (f) In the event of a reasonable turnover in personnel assigned as CMP Certified Trainers, Supplier agrees to consult with CMP in the hiring and placement of a replacement Supplier Trainer eligible to be a CMP Certified Trainer and to initiate such replacement in an expeditious manner. If, during the replacement period, additional new hire or seasonal CMP Training must be conducted, and if requested by Supplier, CMP will assist in this effort at the Supplier's offices at the Supplier's expense.
- (g) From time to time, CMP may request the Supplier Trainer to visit its home offices in Augusta, Maine, in order to receive special or seasonal training. The assignment of costs associated

with such visits will be jointly agreed to in writing by CMP and Supplier, and will be based upon the circumstances.

- (h) Supplier and CMP will jointly agree in writing on all training agenda outlines prior to the commencement of any new hire or seasonal training programs.
- (i) Prior to the onset of the CMP Cold Weather Season (November 15<sup>th</sup> – April 15<sup>th</sup>) and the onset of the CMP Warm Weather Season (April 16<sup>th</sup> – November 14<sup>th</sup>) the Supplier agrees to conduct a four (4) to six (6) hour seasonal training. This training may take place on a Saturday jointly agreed upon by the Company Affiliate and Supplier or during regular business hours as approved by the regulatory agency and Company Affiliate.
- (j) Supplier shall provide training to all Supplier Personnel resources to support the anticipated IUSA Customer SmartCare project upon notice provided by Company Affiliate. Currently the date of such notices is contemplated to be as soon as first quarter of 2017 for CMP.
- (k) In the event the Company Affiliate should introduce/include self-serve training modules the Company Affiliate POC will provide such material/application to Supplier.

### **2.3 Training for NYSEG/RGE:**

- (a) NYSEG/RGE will provide Supplier appropriate training regarding the manner in which Supplier is expected to provide Services, including training in corporate culture, internal policies, procedures, rules and regulatory requirements, and systems ("NYSEG/RGE Training"). Thereafter, Supplier shall be responsible for the hiring and training of Supplier Personnel in a manner jointly developed and agreed to in writing by Supplier and NYSEG/RGE. Supplier Personnel must satisfactorily complete the NYSEG/RGE Certification Process prior to performing the Services for NYSEG/RGE.
- (b) Train the Trainer. NYSEG/RGE shall provide a minimum of one (1) subject matter expert ("NYSEG/RGE Trainer") who will provide Train-the-Trainer Training to a minimum of two (2) Supplier Trainers. NYSEG/RGE shall develop and maintain a checklist of all training completion requirements for a Supplier Trainer to complete NYSEG/RGE Train-the-Trainer Training and shall, in its sole reasonable discretion, certify that the Supplier Trainers have satisfactorily completed the NYSEG/RGE Train-the-Trainer Training and be considered a Supplier Trainer eligible to train other Supplier Personnel ("NYSEG/RGE Certified Trainer"). Supplier shall maintain a minimum of one (1) Certified Trainer per Company Affiliate (1 for NYSEG, 1 for RG&E), dedicated to the NYSEG/RGE's Services, on staff at all times. The NYSEG/RGE Certified Trainers shall be responsible for conducting the NYSEG/RGE Training to Supplier Personnel, including all new or seasonal hires. Any additional or replacement Supplier Trainers must be certified by NYSEG/RGE prior to being considered a NYSEG/RGE Certified Trainer.
- (c) NYSEG/RGE agrees to provide a designated point of contact ("POC") for all CMP Training issues that arise. Supplier agrees to notify NYSEG/RGE's POC of all training plans.
- (d) The Supplier shall provide NYSEG/RGE with a minimum of two (2) weeks prior notice to conducting a new hire training class. Supplier shall submit to Company Affiliate the completed Iberdrola USA – Supplier Background Check, Schedule H, for each Supplier Personnel no less than two (2) weeks prior to the commencement of Training.
- (e) NYSEG/RGE shall provide Supplier with NYSEG/RGE Training material and Supplier agrees to maintain and when necessary edit NYSEG/RGE Training material and provide such documents to NYSEG/RGE upon NYSEG/RGE's reasonable request. NYSEG/RGE core Training material will be maintained by the Company Affiliate and provided to the Supplier as needed. In the event the Supplier creates additional training material, be it written, electronic, video, etc, such training shall be approved by the Company Affiliate POC prior to delivery.

- (f) In the event of reasonable turnover in personnel assigned as NYSEG/RGE Certified Trainers, Supplier agrees to consult with NYSEG/RGE in the hiring and placement of a replacement Supplier Training eligible to be a NYSEG/RGE Certified Trainer and to initiate such replacement in an expeditious manner. If, during the replacement period, additional new hire or seasonal NYSEG/RGE Training must be conducted, and if requested by Supplier, NYSEG/RGE will assist in this effort at the Supplier's offices and at the Supplier's expense.
- (g) From time to time, NYSEG/RGE may request the Supplier Trainer to visit its home offices in Binghamton, NY or Rochester, NY, in order to receive special or seasonal training. The assignment of costs associated with such visits will be jointly agreed to in writing by NYSEG/RGE and Supplier, and will be based upon the circumstances.
- (h) Supplier and NYSEG/RGE will jointly agree in writing on all training agenda outlines prior to the commencement of any new hire or seasonal training programs.
- (i) Prior to the onset of the NY Cold Weather Season (November 1<sup>st</sup> – April 15<sup>th</sup>) and the onset of the NY Warm Weather Season (April 16<sup>th</sup> – October 31<sup>st</sup>) the Supplier agrees to conduct a four (4) to six (6) hour seasonal training on a Saturday jointly agreed upon by the Company Affiliate and Supplier.
- (j) Supplier shall provide training to all Supplier Personnel resources to support the anticipated IUSA Customer SmartCare project upon notice provided by Company Affiliate. Currently the date of such notices is contemplated to be as soon as first quarter of 2018 or 2019 for NYSEG and RG&E.
- (k) In the event the Company Affiliate should introduce/include self-serve training modules the Company Affiliate POC will provide such material/application to Supplier.

#### **2.4 Initial Training Period**

The initial training period ("Initial Training Period") for Supplier Personnel shall commence on the date of the first day of classroom training for the first group of Supplier Personnel to be trained in CMP or NYSEG/RGE Training, as applicable, and continue through the date of the last day of on-the-job-training ("OJT") for the last group of Supplier Personnel to be trained in CMP or NYSEG/RGE Training, as applicable, which dates shall be jointly determined in writing by Company Affiliate and Supplier. Classroom Training will be trainer led instructional training pertaining to Company Affiliate policy and procedures as well as regulatory requirements. "On-the-Job" Training (OJT) will be considered an extension of Classroom Training, no less than two (2) weeks, answering "live production" customer calls.

#### **2.5 Ramp Period**

##### **(a) Customer Representative Ramp Period**

- i. Supplier shall have a sixty (60) day grace period ("Ramp Period") for a CSR to achieve acceptable Customer Satisfaction, Collection Effectiveness and Quality Assurance performance levels, as outlined in Schedule E. The Ramp Period shall commence on the first date of the first calendar month in which the first training class begins answering live production telephone calls, after On-the-Job Training.
- ii. During the Ramp Period, any failure by a CSR to meet acceptable performance levels or for Supplier to meet the Company Affiliate's Service Levels shall not be included in any Quality Monitoring program or report.

##### **(b) Project Implementation Ramp Period**



- i. Supplier and Company Affiliate shall mutually agree upon, in writing, an appropriate Ramp Period timetable in which the Supplier will be eligible for Performance Level Requirements Incentives and penalties as outlined in Schedule E.
- (c) In both Ramp Period cases, if, based on Supplier Personnel performance during Training, Ramp Period or any time thereafter is deemed to be unacceptable to IUSA standards; Company Affiliate reserves the right to request the immediate removal of Supplier employee from the IUSA project.

### **3. QUALITY MONITORING**

- 3.1 Supplier agrees to implement the necessary measurement and monitoring tools and procedures required to measure and report the Supplier's performance of the Services. Such measurement and monitoring shall permit reporting at a level of detail sufficient to verify compliance with the service levels, and shall be subject to audit by the Company Affiliate. The Supplier shall provide the Company Affiliate with information and access to such tools and procedures upon request, for purposes of verifying the Supplier's compliance and the terms of any applicable Services Provided. Supplier agrees to use Company Affiliate's Quality Monitoring Form for all quality monitoring sessions.
- 3.2 Supplier agrees to conduct a quality monitoring program that satisfies the individual Company Affiliate's quality standards, which include a monthly 90% (of 100%) performance measure. The Supplier agrees to conduct a Quality Monitoring as outlined in Schedule E, 6b.
- 3.3 Supplier shall provide to Company Affiliate access to call recordings and screen capture system for Company Affiliate management, as requested.
- 3.4 Call Recordings must be easily accessible for a minimum of six (6) months and then up to seven (7) years thereafter in storage. When requested, the Supplier must provide access to the Company Affiliate, any call requested, older than six (6) months, within a twenty-four (24) hour period.

### **3.5 Calibration Sessions**

Supplier agrees to participate in regularly scheduled calibration sessions to ensure quality monitoring scoring remains consistent.

### **3.6 Reporting of Call Center Statistics**

- (a) Reports associated with incoming calls will include the following minimum data components: Forecasted call volumes (as set forth Schedule E (Special Conditions)), number of calls received, number of calls answered, number of calls answered within thirty (30) seconds or less, number of calls answered within forty-five (45) seconds or less (CMP only), calls abandoned, abandoned rate, number of calls opt out for Virtual Hold, average speed of answer, service level, average talk time, average wrap time, total handle time, CSRs in the queue, utilization rate, number of call transfers to opt out, number of calls and call types transferred back to Company Affiliate and number of calls and call types transferred between Supplier skillsets (i.e. inbound collections call transferred to inbound MIMO skillset). All statistics need to be reported in half-hour increments. Details of reporting will be agreed upon in writing by the individual Company Affiliate and Supplier. Some additional requirements may include: daily comments to notify of any pertinent information associated with the management of the queue (call spikes, average wait time and what action was taken to address system issues); statistical data associated with incoming calls reported on a daily basis via email in an excel spreadsheet; hourly e-mail reports of overall service level, hourly service level, number of calls offered per hour, number of calls answered per hour and average speed of answer; etc.

- (b) Reports associated with outbound dialing will include the following minimum components: number of call attempts, summary of contacts, termination codes, average talk time, average wrap time, total handle time, call list productivity, number of payments collected, dollar amount of payments collected, percentage of outbound calls resulting in payment. Further details of outbound reporting will be agreed upon by the individual Company Affiliate and Supplier. Each report will need a comments section to provide notes regarding staffing or pertinent information (incomplete calling list and action taken to resolve issues, etc.) associated with any issues affecting the management of outgoing calls. This data will need to be reported on a daily basis via an email or as otherwise agreed to by Company Affiliate and Supplier. Additional data may be requested at any time if deemed necessary by an individual Company Affiliate.
- (c) Supplier will ensure month-end reporting is accurate including but not limited to number of calls offered, number of calls answered, abandons, service level, etc. This information will be reported to the applicable regulatory agencies.
- (d) Supplier will provide remote access to call traffic "dashboard"/"canvas" to Company Affiliate liaison/project managers, as requested.

### **3.7 Performance Level Requirements**

- (a) Supplier will sustain performance levels ("Performance Levels") as further defined in Schedule E (Special Conditions), which include but are not limited to: telephone service levels (percent of calls answered within a certain threshold in seconds), quality monitoring standards, number of customer complaint to Company Affiliate's respective Public Service Commissions, number of violations cited to Company Affiliate by its respective Public Service Commission, collections effectiveness, and system performance.
- (b) Company Affiliate and Supplier will mutually agree how various Performance Levels, especially telephone service levels and collection effectiveness, are measured on an ongoing basis (daily, weekly, monthly, etc). Excluding any force majeure provisions as set forth in the Terms and Conditions in Schedule C, Company system unavailability that is beyond Supplier's control, or Company dictated new processes and procedures that render achievement of any or all Performance Levels unattainable, Supplier is held accountable for performance levels on an ongoing basis. Performance Level penalties, if assessed, are based upon Suppliers' month-end performance.
- (c) Supplier recognizes that its failure to meet a Performance Level will have a material adverse effect on the business and operations of the Company Affiliate. Accordingly, in the event that Supplier fails to meet any Performance Level, the Supplier shall promptly investigate and report on the causes of such failure to meet the Performance Level; use reasonable efforts to correct the failure, begin meeting the Performance level as soon as practicable, and advise the Company Affiliate affected to the extent requested by that Company Affiliate of the status of remedial efforts being undertaken with respect to such failure. When appropriate, the Supplier shall inform the Company Affiliate of any potential factors that could impact performance.

### **4. PROJECT MANAGEMENT**

Supplier and Company Affiliate will designate project managers as the primary POCs ("Project POCs") for implementation of the Company Affiliate's Services and for all ongoing issues associated with the Services. Supplier and Company Affiliate shall mutually agree in writing upon an appropriate project plan, including timetable, to migrate Services to the Supplier.

## SCHEDULE C

### Terms and Conditions

#### TABLE OF CONTENTS

<u>Agreement Article - Description</u>	<u>Page</u>
ARTICLE 1 – CONTRACT DOCUMENTATION AND DESCRIPTION OF SERVICES .....	23
ARTICLE 2 - CONTRACT PRICE.....	24
ARTICLE 3 - REIMBURSABLE ITEMS.....	24
ARTICLE 5 – TAXES.....	26
ARTICLE 6 – CHANGES .....	26
ARTICLE 7 - CLAIMS/DISPUTES .....	26
ARTICLE 8 – AUDIT .....	26
ARTICLE 9 - RIGHTS, PRIVILEGES, REMEDIES.....	27
ARTICLE 10 - NON WAIVER OF RIGHTS .....	27
ARTICLE 11 - SET-OFF .....	27
ARTICLE 12 - CONFLICTING DOCUMENTS .....	27
ARTICLE 13 - INDEPENDENT SUPPLIER .....	27
ARTICLE 14 – SUBCONTRACTS .....	28
ARTICLE 15 - THIRD PARTY BENEFITS .....	28
ARTICLE 16 – SAFETY .....	28
ARTICLE 17 - ACCIDENT AND LOSS PREVENTION .....	28
ARTICLE 18 – INSURANCE .....	29
ARTICLE 19 – INDEMNIFICATION .....	29
ARTICLE 20 – WARRANTY .....	30
THE SUPPLIER WARRANTS THAT THE SERVICES PERFORMED UNDER THIS AGREEMENT SHALL BE PERFORMED IN ACCORDANCE WITH ANY SPECIFICATIONS SET FORTH IN A PURCHASE ORDER OR ELSEWHERE HEREIN, AND OTHERWISE IN ACCORDANCE WITH SOUND AND GENERALLY ACCEPTED INDUSTRY PRACTICE BY THOSE WHO RENDER THESE TYPES OF SERVICES WITH THAT DEGREE OF SKILL AND CARE AS REQUIRED BY CUSTOMARILY ACCEPTED PROFESSIONAL PRACTICES AND PROCEDURES, AT THE TIME SUCH SERVICES ARE PERFORMED. TO THE EXTENT SUPPLIER PROVIDES A SPECIFIC DELIVERABLE AS SET FORTH IN A PURCHASE ORDER, IF THE SUPPLIER'S SERVICES ARE FAULTY, THE SUPPLIER SHALL FOR A PERIOD OF ONE (1) YEAR AFTER COMPLETION OF SERVICES, WITHOUT LABOR CHARGE AND ADDERS OR OTHER FEE TO COMPANY, RE-PERFORM SUCH SERVICES TO THE EXTENT NECESSARY TO CORRECT THE FAULT THEREIN. THIS PROVISION SHALL NOT BE CONSTRUED TO AFFECT OR LIMIT THE LIABILITY OF THE SUPPLIER TO THIRD PARTIES, SUPPLIER'S OBLIGATION TO COMPANY PURSUANT TO THE INDEMNIFICATION CLAUSE CONTAINED HEREIN OR ANY OTHER REMEDY WHICH MAY BE AVAILABLE TO COMPANY UNDER APPLICABLE LAW.....	30

ARTICLE 21 - APPROVAL/ACCEPTANCE.....	30
ARTICLE 22 - FORCE MAJEURE .....	30
ARTICLE 23 - TITLE AND LIENS.....	31
ARTICLE 24 - PROGRESS AND COMPLETION .....	31
ARTICLE 25 - EMERGENCIES .....	31
ARTICLE 26 - WORK STOPPAGE .....	32
ARTICLE 27 - TERMINATION .....	32
ARTICLE 28 - TERM AND SURVIVAL.....	32
ARTICLE 29 - REMOVAL OF EQUIPMENT .....	33
ARTICLE 30 - FINAL PAYMENT .....	33
ARTICLE 31 - ASSIGNMENT .....	33
ARTICLE 32 - SEVERABILITY.....	33
ARTICLE 33 - NON WAIVER OF RIGHTS .....	33
ARTICLE 34 - OWNERSHIP OF PLANS .....	33
ARTICLE 35 - KEY PERSONNEL.....	34
ARTICLE 36 - PUBLIC RELEASE OF INFORMATION.....	34
ARTICLE 37 - LIMITATION OF LIABILITY .....	34
ARTICLE 38 - CONFIDENTIALITY .....	34
ARTICLE 39 - EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE .....	35
ARTICLE 40 - SURETY BOND INTENTIONALLY LEFT BLANK.....	35
ARTICLE 41 - GOVERNING LAW .....	35
ARTICLE 42 - PERFORMANCE MONITORING.....	35
ARTICLE 43 - CONTINUOUS IMPROVEMENT INTENTIONALLY LEFT BLANK.....	36
ARTICLE 44 - NO DISPUTE .....	36
ARTICLE 45 - SECURITY REQUIREMENTS .....	36
ARTICLE 46 - EMPLOYEE SOLICITATION .....	36
ARTICLE 47 - ETHICS .....	37
ARTICLE 48 - COMPLIANCE WITH LAWS GENERALLY .....	37
ARTICLE 49 - UTILIZATION OF SMALL BUSINESS CONCERNS.....	37
ARTICLE 50 - SMALL BUSINESS SUBCONTRACTING PLAN.....	37
ARTICLE 51 - GRATUITIES PROHIBITED .....	38

## **ARTICLE 1 – CONTRACT DOCUMENTATION AND DESCRIPTION OF SERVICES**

Pursuant to that certain Master Services Procurement Agreement (the "Master Agreement") between IUMC and [REDACTED] Supplier", the entity named (hereinafter, the "Company") in the given Purchase Order (the "Purchase Order"), engages the Supplier, and the Supplier hereby agrees to perform the Services.

The Services shall be as described in Schedule B of the Master Agreement; as such Schedule may be amended, modified or supplemented and attached hereto for the purposes of the Purchase Order.

The provision of the Services shall be governed by the following documentation:

- (i) The Purchase Order (exclusive of its pre-printed terms and conditions on the back thereof);
- (ii) These Terms
- (iii) and Conditions;
- (iv) The Scope of Services document attached to the Master Agreement as Schedule B, as it may be amended, modified or supplemented for the Purchase Order; and
- (v) The Master Agreement, including all Schedules other than those described in subsections (i), (ii), and (iii) above.

In the event of any inconsistency among the aforementioned documentation, the order of precedence shall be as set forth in subsections (i), (ii), (iii), and (iv), above.

All work shall be invoiced in accordance with the Pricing Schedule included in Schedule D, attached hereto and made a part hereof (unless otherwise agreed to in writing by the Company).

Supplier further agrees to do the following:

- A Supplier, through its experience and the normal course of business, has included full provision for local wage rates, travel and subsistence rates, allowances and conditions, if any, as well as allowances for any other measures necessary to complete the work in a satisfactory manner in accordance with this Agreement.
- B. Supplier has read, understands and shall comply with Schedule E, hereby referred to as "Special Conditions", attached hereto and made a part hereof.
- C. Upon execution (for purposes hereof execution means when Supplier has begun to provide Services pursuant to the Purchase Order) of a Purchase Order:
  - 1) Supplier has examined all available records pertaining to the work.
  - 2) Supplier further states that the Agreement Price and detailed schedule for completion of the work are based on Supplier's known knowledge and judgment of the conditions and hazards involved, and not upon a representation of the Company. The Company assumes no responsibility for any understandings or representation made by any of their representatives during or prior to execution of

this Agreement unless such understandings or representations are expressly stated in this Agreement and the Agreement expressly provides that the responsibility is assumed by the Company.

## **ARTICLE 2 - CONTRACT PRICE**

The total price for the Services (made up of the costs, fees and expenses arising under Article 3 below) shall be set forth in the Purchase Order and shall be considered fixed unless stated otherwise (time and equipment, for example) on the face of the Purchase Order.

## **ARTICLE 3 - REIMBURSABLE ITEMS**

The Supplier shall be reimbursed for the following items for Services performed under this Agreement:

### **A. Fees**

Supplier shall be paid at the rates specified in Schedule D to the Master Agreement for time spent in the actual performance of Services hereunder, including the preparation of reports, UNLESS a predetermined firm lump sum price has been agreed upon by both parties for all or part of the work, the criteria of which would take precedence as referenced therein. Time spent in Normal Commuting is not a billable expense. The term "Normal Commuting" means Supplier's first trip to any Work Location in a given day and Supplier's last trip from any Work Location in a given day. The term "Work Location" shall mean any location at which Services are or are to be performed by the Supplier. The term "Supplier's Base" shall mean the location or respective locations (which shall be disclosed to Company in advance) from which Supplier will normally travel to Work Locations to perform Services. The Supplier agrees whenever possible, to coordinate travel arrangements that will maximize time spent in performing Services for the Company.

(i) Company will not reimburse Supplier for additional expenses invoiced separately under a fixed bid project. The Supplier must include all the expected expenses from the quoted project within the fixed bid proposal.

(ii) Company reserves the right to renegotiate or reject expenses when the Supplier's local office personnel are not utilized for the awarded project but meet the required job classification/criteria to complete the project and Supplier utilizes resources from other Supplier's offices.

### **B. Travel Expenses**

Company will pay or reimburse Supplier for actual cost of travel expenses incurred during the course of travel undertaken at Company's request for the performance of Services, including travel from Work Location to Work Location, not including Normal Commuting, as follows:

(i) The Supplier will be reimbursed the automobile mileage at the then current IRS allowed rate. For mileage incurred in actual and necessary travel by private automobile for mileage to the Work Location, plus the actual cost of all parking, highway, and/or bridge charges paid enroute.

(ii) The Supplier will be paid or reimbursed for travel by commercial airlines in coach class and at discounted fares, if possible, except when such coach and/ or discounted airline accommodations are not reasonably available to meet necessary work requirements or would

- a) require circuitous routing;
- b) require travel during unreasonable hours;
- c) greatly increase the duration of the flight;
- d) result in additional costs which would offset the transportation savings; or
- e) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

Company will pay or reimburse Supplier for such reasonable additional airline travel expenses as are necessary to avoid or overcome the problems cited in the foregoing sentence.

(iii) Company will pay or reimburse Supplier for the actual cost of necessary local transportation (cab, bus, streetcar, rental car, etc.). The Supplier agrees to furnish documentation, if requested, for any such charges in excess of [REDACTED] with its invoices therefore under this Agreement.

(iv) Company will pay or reimburse Supplier for the actual cost of reasonable meals and hotel accommodations unless a predetermined per diem has been agreed to and is listed in Schedule D to the Master Agreement.

(v) Company will not reimburse Supplier's meal expenses for travel when an individual leaves their home base and returns to their respective home base within the same day.

#### **ARTICLE 4 - PAYMENTS**

A. Payments of any undisputed portions of a properly completed invoice, supported by original receipts, and detailing the travel expenses, will be made within 45 days of the last day of the month in which the Services are rendered. If Company disputes any portion of an invoice, it shall notify Supplier within twenty (20) days from receipt of such invoice of the reasons for such dispute, and Company and Supplier shall cooperate in resolving such dispute.

B. An original and copy of each invoice are to be mailed to the "Bill to Location" provided in the Purchase Order.

Each invoice shall show the Purchase Order Number, Supplier work location, payment terms and the job name and other information, which may be required or reasonably requested by Company.

The following documentation must accompany each invoice:

(i) Summary statements listing employee name, job classification, hours charged and hourly billing rates (both straight time and overtime if applicable) and total charges for the invoice period.

(ii) Copy of invoices for material, services, rentals, contracts, and other Items purchased or rented in connection with the Services.

(iii) Copies of expense account summary sheets for each individual performing Services will be provided. The summary sheet will summarize lodging, meals, transportation and any other expenses. The period of time will also be shown. Supplier shall retain copies of supporting documents for such expense accounts, and these will be made available for Company review upon written request by Company. Supplier shall preserve all pertinent records supporting payment for Services hereunder for a period of two (2) years after final payment for the Services.

#### **ARTICLE 5 – TAXES**

The price does not include sales/use taxes.

Supplier shall be responsible for payment of and assumes exclusive liability for any and all contributions or taxes imposed by or required under the laws of the State of New York or any other state or Federal law, or the Federal Social Security Act or any other act, now or hereafter in effect, upon or in respect to, wages, salaries, benefits or other compensation paid to employees engaged upon or in connection with the Services.

Company shall withhold from any payments due Supplier hereunder any amounts that it is required to withhold pursuant to any Federal or State tax laws.

#### **ARTICLE 6 – CHANGES**

No changes in the Scope of Services are authorized unless made by Company and sustained by written Supplement. Changes made by Supplier, unless authorized by an executed Supplement, shall be made at the sole risk of Supplier, there being no financial recourse against Company. A Supplement is a written Purchase Order Supplement, signed by the Company and issued after the execution of this Agreement, authorizing an addition, deletion, or revision in the Services or an adjustment in the Contract Price or the Schedule.

No changes in the Agreement will be made without an Agreement Supplement. Unless otherwise agreed, all Supplements shall be governed by the conditions of this Agreement.

#### **ARTICLE 7 - CLAIMS/DISPUTES**

- A. Any billing claims by Supplier relating to this Agreement must be submitted in writing within 120 calendar days of initial occurrence of the basis for the billing. Any other claims relating to this Agreement must be submitted in writing within two (2) years of the initial occurrence of the basis of the claim excluding claims for which Company has an indemnification obligation pursuant to Article 19, below, which must be submitted in writing within six (6) years of the initial occurrence of the basis of the claim. Failure to provide such notification shall be deemed waiver of such claim.
- B. Any dispute or claims by the Supplier shall not affect the diligent prosecution by Supplier of the Services.

#### **ARTICLE 8 – AUDIT**



Supplier shall check all material and labor entering into the Services and shall keep full and detailed accounts as may be necessary to provide proper financial management under this Agreement. At all reasonable times, and subject to any third party confidentiality obligations of the Supplier, the Company shall have access to the Supplier's offices, work and records pertinent to all charges under this Agreement, for inspection, audit and review. Supplier shall permit such examination and make appropriate adjustments as may be required by the results of the audit. This provision shall remain in effect for two (2) years following final payment under this Agreement. An SOC1 report will be required that covers the periods from January 1<sup>st</sup> to December 31<sup>st</sup> of each year, due by September 30<sup>th</sup> of the following year. If the SOC1 report does not cover the entire year, a bridging report will be mandatory to cover the remaining months.

#### **ARTICLE 9 - RIGHTS, PRIVILEGES, REMEDIES**

All rights, privileges and remedies afforded each of the parties hereto by this Agreement shall be deemed cumulative and the exercise of any one or more of such rights or remedies shall not be deemed a waiver of any other right, privilege or remedy provided for herein or available at law or in equity.

#### **ARTICLE 10 - NON WAIVER OF RIGHTS**

Any failure by the Company to enforce or require the strict performance of the terms or conditions of this Agreement shall not constitute a waiver of such terms or conditions and shall not affect or impair such terms or conditions in any way.

#### **ARTICLE 11 - SET-OFF**

In the event Supplier owes money to the Company or has defaulted under this Agreement or under any other agreements with the Company, or Supplier has failed to pay any amount owed to the Company whether pursuant to an agreement, a statutory or regulatory fine, the imposition of statutory or regulatory damages, or otherwise (collectively, the "Obligations"), the Company may, at its option, setoff and/or net any or all such undisputed Obligations with notice and in consultation with Supplier, against any amounts owed by the Company to the Supplier.

#### **ARTICLE 12 - CONFLICTING DOCUMENTS**

To the extent, if any, that the specifications, drawings or other documents that may be referenced herein conflict with the provisions of this Agreement, this Agreement shall take precedence and govern.

#### **ARTICLE 13 - INDEPENDENT SUPPLIER**

Supplier is and shall always remain an independent contractor in its performance of this Agreement. With the exception of staff augmentation engineering services required by Company, where Supplier's personnel work out of Company's offices under Company's direction, the provisions of this Agreement shall not be construed as authorizing or reserving to Company any right to exercise any control or direction over the operations, activities, employees or agents of Supplier in connection with this Agreement. Neither party to this Agreement shall have any authority to employ any person as agent

or employee for or on behalf of the other party to this Agreement for any purpose, and neither party to this Agreement, nor any person performing any duties or engaging in any work at the request of such party, shall be deemed to be an employee or agent of the other party to this Agreement.

Company shall carry no worker's compensation Insurance, health insurance or accident insurance to cover the Supplier, or any of its agents, employees or subcontractors. Company shall not pay any contributions to Social Security, unemployment insurance, federal or state withholding taxes, or provide any other contributions or benefits which might be expected in an employer/employee relationship. The Supplier agrees to report and pay any contributions for taxes, unemployment insurance, Social Security and any other required payments himself or herself.

#### **ARTICLE 14 – SUBCONTRACTS**

If Supplier shall cause any part of the work to be performed by a sub-contractor, the provisions of this Agreement shall apply to such sub-contractor and its officers, agents or employees in all aspects as if they were employees of Supplier, and Supplier shall not thereby be discharged from any of its obligations and liability hereunder, but shall be liable hereunder for all acts and omissions of the sub-contractors. Nothing shall create any contractual relationship between Company and any subcontractor or any sub-subcontractor.

The Supplier shall submit a list of those work items which it plans to subcontract and the names of Supplier's subcontractor proposed for the work. Supplier's subcontractor may not be changed except at the request of or with the written approval of the Company. The Company shall promptly notify the Supplier in writing if, after due investigation, Company has reasonable objection to any subcontractor on such list and does not accept it. Failure of the Company to make objection promptly shall constitute acceptance of such subcontractor. Copies of all subcontracts shall be furnished to Company.

#### **ARTICLE 15 - THIRD PARTY BENEFITS**

Except as may be specifically provided for herein, no provision of this Agreement is intended or is to be construed to be for the benefit of any third party.

#### **ARTICLE 16 – SAFETY**

Company may at any time suspend the work or any part thereof, immediately and verbally for reasons of safety. In the event of any work stoppage, Supplier shall properly protect such work as may be liable to sustain injury from any cause.

The Company's Safety Rules and Regulations for Supplier's attached hereto and made a part hereof, as Attachment A and shall apply to all work performed under this Agreement.

#### **ARTICLE 17 - ACCIDENT AND LOSS PREVENTION**

For the protection of workers and the public, the Supplier will take all necessary and advisable precautions for the safety of all persons and property at, on, or near the work site and will erect and maintain all necessary and advisable safeguards as required by the conditions and progress of the work.

#### **ARTICLE 18 – INSURANCE**

Supplier shall maintain insurance in accordance with the requirements as set forth in Schedule [G]. Supplier must maintain applicable insurance. An insurance certificate must be mailed to Company prior to starting Services.

#### **ARTICLE 19 – INDEMNIFICATION**

Supplier will indemnify, defend at its expense and hold harmless the Company and its Affiliates, directors, officers, employees, and agents (the "Indemnitee") from and against any and all third party claims, demands, suits, losses, costs, fees, damages or reasonable expenses it may suffer, or for which it may be held liable, whether including, without limitation, reasonable expenses and attorneys fees incurred in the connection therewith, by reason of (A) any patent, trademark, or copyright infringement claim, or any design, device, process or procedure used, installed or provided by the Supplier or its agents or subcontractors under this Agreement; except to the extent provided, required or specified by Company; (B) any work-related accident or injury affecting an employee, agent or subcontractor of the Supplier, arising in connection with work performed under this Agreement; (C) any claim by an agency or instrumentality of the federal, state or any local government, or by an employee, agent or subcontractor of the Supplier alleging that (i) the Indemnitee is required to maintain worker's compensation or unemployment or any other type of insurance upon any employee, agent or subcontractor of the Supplier; (ii) the Indemnitee is liable for tax payments or withholding with respect to any employee, agent or subcontractor of the Supplier; (iii) any employee, agent or subcontractor of the Supplier is entitled to receive employee benefits from the Indemnitee, including, without limitation, vacation, deferred compensation, medical, pension, 401(k) or any other benefit available to the Indemnitee's employees; and (iv) the Indemnitee is liable to any party, for any reason, due to the negligent performance of Services or omissions by an employee, agent or subcontractor of the Supplier; (D) bodily injury, including death, to any person or persons due to the negligent, reckless or willful actions or omissions of the Supplier or its agents or subcontractors; (E) damage to or destruction of any tangible property, including loss of use thereof, due to the negligent, reckless or willful actions or omissions of the Supplier, or its agents or subcontractors. Supplier will have no obligation under this Article 19 to the extent the claims are attributable to (i) the gross negligence or willful misconduct of any Indemnitee; (ii) Supplier's reliance on information, data, systems or specifications provided by Company; or (iii) any Indemnitee's failure to comply with applicable laws. Individual employees, agents and subcontractors of the Supplier who are performing services for the Indemnitee under this Agreement shall be considered to be employees, agents or subcontractors of the Supplier for all purposes under this Agreement, notwithstanding any judicial or administrative determination that such employees, agents or subcontractors of the other party should be regarded as employees under applicable law. All actions of the employees, agents and subcontractors of the Supplier under this Agreement shall be deemed to be actions of the Supplier under these indemnities and this Agreement. In furtherance of the foregoing indemnification and not by way of limitation thereof, the Supplier hereby waives any defense or immunity it might otherwise have under applicable worker's compensation laws or any other statute or judicial decision (including, for Work or services to be conducted in Maine, without limitation, *Diamond International Corp. v Sullivan & Merritt, Inc.* 493 A2d. 1043 (Me 1985)) disallowing or limiting such indemnification, and the Supplier consents to a cause of action for indemnity. Company shall, with respect to any indemnity provided by Supplier: (a)

provide prompt written notice of the applicable claim to Supplier; (b) tender sole control over the defense of the claims to Supplier provided that Supplier shall be required to obtain Company's consent before entering into any proposed settlement that affects Company and provided further that Company shall be permitted to participate in the defense with counsel of its own choosing at its own sole expense; and (c) provide, at Company's expense, reasonable assistance to Supplier.

Company will indemnify, defend at its expense and hold harmless Supplier and its affiliates, directors, officers, employees, and agents (the "Supplier Indemnitee") from and against any and all third party claims, demands, suits, losses, costs, fees, damages and reasonable expenses it may suffer, or which it may be held liable, whether including, without limitation, reasonable expenses and attorneys fees incurred in the connection therewith, by reason of (A) any suit or claim claiming Company's breach of applicable law or (B) any suit or claim arising out of or relating to Supplier's reliance on information, data, systems or specifications provided by the Company that results in violation or alleged violation by Supplier of any applicable laws.

#### **ARTICLE 20 – WARRANTY**

The Supplier warrants that the Services performed under this Agreement shall be performed in accordance with any specifications set forth in a Purchase Order or elsewhere herein, and otherwise in accordance with sound and generally accepted industry practice by those who render these types of services with that degree of skill and care as required by customarily accepted professional practices and procedures, at the time such services are performed. To the extent Supplier provides a specific deliverable as set forth in a Purchase Order, If the Supplier's services are faulty, the Supplier shall for a period of one (1) year after completion of services, without labor charge and adders or other fee to Company, re-perform such Services to the extent necessary to correct the fault therein. This provision shall not be construed to affect or limit the liability of the Supplier to third parties, Supplier's obligation to Company pursuant to the Indemnification clause contained herein or any other remedy which may be available to Company under applicable law.

#### **ARTICLE 21 - APPROVAL/ACCEPTANCE**

To the extent Supplier provides a specific deliverable as set forth in a Purchase Order, all work under this Agreement shall be subject to the Company's inspection and approval before payment.

#### **ARTICLE 22 - FORCE MAJEURE**

Supplier shall not be charged with any liability for failure to perform when such failure is due to any cause beyond the control and without the fault or negligence of Supplier, except that adverse weather shall not be deemed a cause beyond the control of Supplier for purposes of this Agreement unless the adverse weather is unusually severe, provided that the Supplier shall have used its commercially reasonable efforts to remedy the delaying cause or condition and recommence performance, and has furnished the Company with prompt written notice when it appears that such cause will result in non-performance or shall threaten to impair Company's ability to operate. Company shall have the right at its option and without being under any liability to Supplier to cancel by notice in writing to Supplier the portion or portions of the work so affected and to take such compensation action as may be necessary. Correspondingly, Company shall be excused for failure of performance herein due to any cause beyond its control and without its fault or negligence.

#### **ARTICLE 23 - TITLE AND LIENS**

Supplier represents and warrants that it has title to all equipment or material furnished hereunder free and clear of all liens and encumbrances. Complete legal and equitable title to each item of equipment or material covered by this Agreement shall pass to the Company immediately upon delivery at job site. This provision shall apply irrespective of any terms of payment specified in this Agreement. Passage of title pursuant to this provision shall not release or waive any continuing or subsequent responsibility of Supplier under this Agreement.

Supplier shall take all action reasonably necessary to discharge, remove, or satisfy any lien filed against any property of the Company, or any portion thereof, arising from any work, labor, services, or materials claimed to have been performed or furnished for, or on behalf of, the Supplier or any person or entity by or through the Supplier. Supplier shall forthwith take such action necessary to discharge, remove, or satisfy any such lien filed against the property of the Company, including but not limited to posting of a bond. If the Supplier shall fail to discharge, remove, or satisfy any such lien within ten (10) days after notice of the existence of such lien has been provided by the Company, the Company shall have the right, but not the obligation, to pay the amount of such lien, or discharge the same by deposit or bonding, and the amount so paid or deposited, or the premium paid for such bond, with interest at the maximum allowable by law, may be set-off against any payment due Supplier under this Agreement.

#### **ARTICLE 24 - PROGRESS AND COMPLETION**

It is expressly understood by the Supplier that TIME IS OF THE ESSENCE in the performance of this Agreement. The Supplier shall begin the work on the date of commencement set forth in the Agreement. The Supplier shall carry the work forward expeditiously with adequate forces and shall complete it by the time work is to be completed as stated in the Agreement.

If the Supplier is delayed at any time in the progress of the work, written notice thereof, including an explanation of the cause and the anticipated duration of the delay, shall be given promptly to the Company by the Supplier, but in no event later than five (5) days after such delay becomes apparent. Failure to give such notice promptly and within such time limit shall be deemed sufficient reason for denial by Company of an extension of time for performance and may be deemed a default.

Failure of Supplier's subcontractor or materials and equipment suppliers to meet schedules shall not be cause for an extension of time. Supplier acknowledges that it has sole responsibility for expediting the efforts of its subcontractors, suppliers, and others.

#### **ARTICLE 25 - EMERGENCIES**

The Supplier shall perform any work and shall furnish and install any materials and equipment necessary during an emergency affecting the safety of persons and property. In all cases, Supplier shall notify the Company of the emergency as soon as practicable, but shall not wait for instructions before proceeding to properly protect both life and property. Any additional compensation or extension of time claimed by the Supplier on account of emergency work shall be determined by mutual agreement of the parties.

#### **ARTICLE 26 - WORK STOPPAGE**

Supplier's personnel shall not honor any union picket lines or strikes nor take part in any work slow down or stoppage nor refuse to report for work, unless such action is protected by any state or federal labor relations law. Notwithstanding the preceding sentence, it shall be the obligation of the Supplier to supply a qualified work force. Company may terminate this Agreement if Supplier fails to provide a qualified work force within twenty-four (24) hours of Company's notification to Supplier that a qualified work force has not been supplied.

#### **ARTICLE 27 - TERMINATION**

Company may for any reason, with or without cause, on written notice to Supplier, in accordance with Section 5.2 of the Agreement, terminate all or any part of the unperformed portion of this Agreement without liability to Company except as stated in this Article. In full discharge of any obligations to Supplier in respect of this Agreement and such termination, Company shall pay Supplier, in accordance with the payment terms of the Agreement, only for Services performed prior to receipt by Supplier of notice of termination; provided, however, that such payment shall not result in a total payment to the Supplier exceeding the maximum amount payable to the Supplier pursuant to this Agreement. Termination shall not relieve Supplier of any obligation which may arise out of Services performed prior to termination. In no event shall Company be liable to Supplier for lost profit or overhead in respect of Services not performed prior to termination, unabsorbed overhead or anticipated profits on uncompleted portions of this Agreement.

In the event Supplier is in default of any of its obligations under this Agreement, Company shall have the right, on ten (10) days written notice to Supplier, to terminate this Agreement for such default; provided, however, that Supplier shall have the right to cure by submitting a plan acceptable to the Company to cure the default during the ten (10) day notice period in order to avoid termination and providing that such default is, in fact, cured within thirty (30) days after Supplier first received notice of the default from Company. In the event of such termination, the preceding paragraph of this Article shall not apply and Company shall have all rights and remedies provided by law or equity and under this Agreement. In addition, in such event, Company may retain from any money otherwise due for Services rendered prior to termination an amount which Company reasonably determines is adequate to cover all damage resulting from the Supplier's default. In the event that Supplier demonstrates that a cancellation for default is erroneous, the cancellation shall, at Company's option, be withdrawn or be deemed to have been issued as a termination for convenience pursuant to the preceding paragraph and the rights and obligations of the parties hereto shall in such event be governed accordingly. The value of Services performed not in accordance with this Agreement shall be subject to audit, assessment and approval by Company.

Supplier may terminate all or any part of the unperformed portion of this Agreement in accordance with Section 5.2 of the Agreement without liability to Company except as stated in this Article 27.

#### **ARTICLE 28 - TERM AND SURVIVAL**

This Agreement shall remain in effect unless otherwise terminated as provided herein, or upon receipt by Company of Supplier's Release and Certificate Form and Final Payment is made as set forth in Article 30 below. Notwithstanding the foregoing, Articles 4, 7, 9, 10, 13, 14, 17, 18, 19, 22, 31, 37, 38, 39, 47 and all other terms which contain obligations or duties which by their nature are to be or may be

performed beyond any termination hereof, shall survive the termination of this Agreement without regard to the reason for termination.

#### **ARTICLE 29 - REMOVAL OF EQUIPMENT**

In the case of termination of this Agreement for any reason whatsoever, the Supplier, if notified to do so by the Company, shall promptly remove any part or all of Supplier's equipment and supplies from the property of the Company, falling which the Company shall have the right to remove such equipment and supplies at the expense of the Supplier.

#### **ARTICLE 30 - FINAL PAYMENT**

Final payment under this Agreement shall not be made until successful completion and acceptance of the work by the Company and when requested by Company, Supplier's delivery of a completed Release and Certificate Form, the form of which shall be provided to Supplier at the time of the request.

#### **ARTICLE 31 - ASSIGNMENT**

Supplier shall not assign all or any of its rights or obligations under this Agreement except with the prior written consent of Company. Any assignment made without such consent shall be void ab initio.

#### **ARTICLE 32 - SEVERABILITY**

If any provision of this Agreement is unenforceable under any applicable law or is held invalid, such holding shall not affect any other provision hereof, and this Agreement shall be construed as if such unenforceable or invalid provision had never been contained herein.

#### **ARTICLE 33 - NON WAIVER OF RIGHTS**

Any failure by the Company to enforce or require the strict performance of the terms or conditions of this Agreement shall not constitute a waiver of such terms or conditions and shall not affect or impair such terms or conditions in any way.

#### **ARTICLE 34 - OWNERSHIP OF PLANS**

All drawings, plans, specifications, reports, designs, design data, technical and scientific data, findings, recommendations and memoranda of every description whether furnished to or prepared by Supplier specifically for Company under this Agreement shall (x) be delivered to Company upon completion of the work or termination or cancellation of this Agreement, (y) be deemed to have been prepared by Supplier for Company on a work-made-for-hire basis, and (z) shall be the property of Company and may be used by Company for any purpose whatsoever without any claim on the part of Supplier for additional compensation. To the extent any of the foregoing are not deemed a work for hire by operation of law, Supplier hereby irrevocably assigns, transfers, and conveys to the Company without further consideration all of its right, title, and interest in such drawings, plans, specifications, reports, designs, design data, technical and scientific data, findings, recommendations and memoranda of every description, including all rights of patent, copyright, trade secret or other proprietary rights in such materials.

Except as specifically authorized by this Agreement, or as otherwise authorized in writing by Company, information and other data developed or acquired by or furnished the Supplier in the performance of this Agreement shall be used only in connection with the work under this Agreement.

#### **ARTICLE 35 - KEY PERSONNEL**

Personnel assigned to perform work hereunder who are designated as "Key" Personnel in this Agreement shall devote their working time to the work as required by the Agreement Schedule of Activities and shall not be removed, without the prior written consent of Company, until their assignments are completed. The Company shall have the right to reject replacements for personnel.

#### **ARTICLE 36 - PUBLIC RELEASE OF INFORMATION**

Date, photographs, sketches, advertising and other information relating to the work under this Agreement, which Supplier desires to release or publish, shall be submitted to the Company for approval two (2) weeks prior to the desired release date. As a part of the approval request, Supplier shall identify the specific media to be used as well as other pertinent details of the proposed release. All releases must have the prior written approval of the Company which approval may be withheld without reason or explanation to Supplier.

#### **ARTICLE 37 - LIMITATION OF LIABILITY**

TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING IN ANY WAY FROM THE PERFORMANCE OF THE SERVICES HEREUNDER.

#### **ARTICLE 38 - CONFIDENTIALITY**

Supplier, its employees and agents, shall treat any information, (including any technical information, experience or data) regarding Company or Company's plans, programs, plants, processes, costs, equipment, operations, of Company (or Affiliates), which may be disclosed to, or come within the knowledge of, Supplier its employees and agents in the performance of this Agreement, as confidential, and will not use or disclose this information to others, during the term of this Agreement, and for three (3) years thereafter, except as is necessary to perform the services hereunder, without Company's prior written consent. The provisions of this Article shall not apply to any information referred to in this Section which (i) has been published and has become part of the public knowledge through no effort by Supplier, its employees, or agents, (ii) has been furnished or made known to Supplier or Supplier's Affiliates by third parties (other than those acting directly or indirectly for or on behalf of Company) as a matter of legal right and without restriction on disclosure, (iii) was in Supplier's possession prior to disclosure by Company and was not acquired by Supplier or Supplier's Affiliates, its employees and agents directly or indirectly from Company or, (iv) is required by law or by any other governmental regulatory authority to be disclosed.

Any information, which is supplied by the Supplier to Company will be similarly restricted, including clauses (i) through (iv) in the paragraph above. Company will not disclose such information to others or publish it in any form at any time; provided, however, that notwithstanding the foregoing, Company may disclose any such information to its Affiliates, employees, and consultants, to any regulatory agencies or instrumentality's when such disclosure is necessary, or otherwise required by law.



Each party agrees that they will cooperate with the other in an effort to minimize the amount of such information, which will be disclosed in any such case, and to make reasonable efforts to secure confidential treatment of such information.

In no event shall Company's name and/or logo or the name and/or logo of its Affiliates be used, whether written or verbal, duplicated, reproduced by any means whatsoever without the prior written permission of the Company.

All inquiries by any governmental, business, or other entity, including media, regarding any work performed or to be performed by Supplier for Company shall be directed by Supplier to Company for response.

#### **ARTICLE 39 - EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

To the extent, if any, that the provisions of the following executive order and statutes, as amended or supplemented, along with their implementing regulations, apply to the performance of the Services by Supplier, the Supplier will comply with the applicable executive order, statutes and regulations : Section 202 of Executive Order 11246 (41 CFR § § 60, et seq.); Section 402 of the Vietnam Era Veterans Readjustment Act (41 CFR § § 60-250.1, et seq.); Section 503 of the Rehabilitation Act of 1973 (41 CFR § § 741.1, et seq.); and New York Executive Law §§ (5 NYCRR § § 140.1, et seq.). These regulations may require the Supplier to develop an Affirmative Action Compliance Program and file a standard Form 100 Report (EEO-1), or other reports, as prescribed.

#### **ARTICLE 40 – SURETY BOND INTENTIONALLY LEFT BLANK**

#### **ARTICLE 41 - GOVERNING LAW**

The Supplier will comply with all applicable federal, state and local laws, rules, ordinances and regulations of any governmental entity, board or agency having jurisdiction over the work or the premises.

All questions concerning the interpretation, validity and enforceability of this Agreement and of its terms and conditions, as well as questions concerning the sufficiency or other aspects of performance under the terms or conditions of this Agreement, shall be governed by the law of the State of New York, without reference to its conflict of law provision and any action or proceeding brought in connection therewith, will be brought in the appropriate court located in the State of New York.

#### **ARTICLE 42 - PERFORMANCE MONITORING**

Company will evaluate Supplier's performance by utilizing Supplier Corrective Action Reports and Supplier Performance Evaluation Reports. The Company's Project Manager will evaluate the Supplier's performance upon the conclusion of every project by completing the specified report. The Company will continuously monitor the Supplier's performance. Performance by a Supplier that is less than

desirable may potentially eliminate this Supplier from bidding on future projects and/or lump sum projects.

#### **ARTICLE 43 – CONTINUOUS IMPROVEMENT INTENTIONALLY LEFT BLANK**

#### **ARTICLE 44 - NO DISPUTE**

Supplier represents and warrants that it is not aware of any pending billing dispute or other contractual dispute (pursuant to current contracts or contracts no longer in effect) or any pending or threatened litigation between Supplier and/or any of Supplier's affiliates and Company and/or any of Company's affiliates.

#### **ARTICLE 45 - SECURITY REQUIREMENTS**

Supplier shall comply with Company's Security Requirements in their performance of Services as provided herein.

Supplier shall be familiar with and shall comply with the requirements of the NERC CIP-004 for projects or services at or relating to critical cyber assets and critical company operating facilities ("Critical Infrastructure"). The specific CIP Standard follows:

CIP-004 Excerpt:

R3. Personnel Risk Assessment --The Supplier shall have a documented personnel risk assessment program, in accordance with federal, state, provincial, and local laws, and subject to existing collective bargaining unit agreements, for personnel having authorized cyber or authorized unescorted physical access. A personnel risk assessment shall be conducted pursuant to that program prior to such personnel being granted such access except in specified circumstances such as an emergency. The personnel risk assessment program shall at a minimum include:

R3.1. The Supplier shall ensure that each assessment conducted include, at least, identity verification (e.g., Social Security Number verification in the U.S.) and seven- year criminal check. The Supplier may conduct more detailed reviews, as permitted by law and subject to existing collective bargaining unit agreements, depending upon the criticality of the position.

R3.2. The Supplier shall update each personnel risk assessment at least every seven years after the initial personnel risk assessment or for cause.

R3.3. The Supplier shall document the results of personnel risk assessments of its personnel having authorized cyber or authorized unescorted physical access to Critical Cyber Assets, and that personnel risk assessments of contractor and service vendor personnel with such access are conducted pursuant to Standard CIP-004.

#### **ARTICLE 46 - EMPLOYEE SOLICITATION**

During the term of this Agreement and for a period of one (1) year thereafter, except with the prior written consent of the Company, Supplier shall not offer employment to any employee of the Company or Company's current Affiliates with whom Supplier first has had contact in connection with

the negotiation, execution, or performance of this Agreement, and Supplier shall not induce or attempt to induce, directly or through an agent or third party, any such employee to leave the employ of the Company or its Affiliates. As used herein, the term "Affiliate" shall mean any person or entity controlling, controlled by, or under common control with the Company through majority stock or other ownership interest, direct or indirect. Nothing in this clause shall limit Supplier from employing any person who contacts Supplier on his or her own initiative and without any solicitation by Supplier specifically directed to such employee.

#### **ARTICLE 47 – ETHICS**

Supplier shall comply with the Iberdrola Suppliers' Code of Ethics ("Suppliers' Code of Ethics") in connection with its performance under this Agreement. The Suppliers' Code of Ethics can be found at the Iberdrola USA website ([www.iberdrolausa.com](http://www.iberdrolausa.com)).

#### **ARTICLE 48 – COMPLIANCE WITH LAWS GENERALLY**

Supplier will comply with all laws, rules and regulations of any governmental entity, board or agency having jurisdiction over the Services, including, without limitation, State, Federal or local laws, rules and regulations and any applicable Executive Orders (State or Federal) in the performance of the Services.

#### **ARTICLE 49 – UTILIZATION OF SMALL BUSINESS CONCERNS**

Supplier and subcontractors of all tiers must comply with section 52.219-8 of the Federal Acquisition Regulation. This policy requires that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business, Alaskan Native Corporation, and Indian tribe concerns shall have the maximum practicable opportunity to participate in the performance of Services.

#### **ARTICLE 50 – SMALL BUSINESS SUBCONTRACTING PLAN**

Some or all of the Goods and Services provided hereunder may be used in a contract with the federal government and, therefore, may be subject to the requirements of FAR section 52.219-9. If applicable, each Supplier (except small business concerns) whose contract is expected to exceed [REDACTED] [REDACTED] for construction) and has subcontracting possibilities is required to submit an acceptable subcontracting plan to the Company. The plan shall include spending goals with businesses that are defined by the U.S. Small Business Administration as small, women-owned small, veteran-owned small, service-disabled veteran-owned small, HUBZone, small disadvantaged (SDB), Alaskan Native Corporations, and Indian tribes. If the Supplier fails to submit a plan within the time limit prescribed by the Company, Company may terminate this Agreement.

The Supplier assures that the clause entitled "Small Business Subcontracting Plan" will be included in all subcontracts, that offer further subcontracting opportunities, and all subcontractors (except small business concerns) who receive subcontracts in excess of [REDACTED] for construction) will be required to adopt a plan similar to this plan.

**ARTICLE 51 - GRATUITIES PROHIBITED**

The Supplier shall not, under any circumstances, offer or extend any gratuity or special favor to any employee or agent of the Company or its Affiliates or do anything which might reasonably be interpreted as an attempt to influence any employee or agent of the Company in the conduct of their duties.

## **SCHEDULE D**

### **Pricing Terms**

1. Prices shall remain firm for orders placed during the term of this Agreement. Any requests for price adjustments shall be submitted in writing at least 30 days in advance. Supplier performance will be considered when reviewing any price adjustments, and IUMC reserves the right to accept, reject or negotiate any requested price increases.
2. Payment Terms are Net 60 days from date of invoice.

The following rates will be in effect from January 1, 2016 to December 31, 2018.

Standard Service Rate Table		
Supplier	Inbound	Cost Per Call
	NYSEG Collections – SL 70%/30	
	RG&E Collections – SL 70%/30	
	CMP Collections – SL 83%/30	
	RG&E Service Initiation/Termination – SL 83%/30	
	CMP Service Initiation/Termination – SL 83%/30	
	Outbound	Cost Per Call
	Automated Outbound	
	Predictive Agent – No Contact with Customer	
	Predictive Agent – Contact with Customer	

Both Parties agree that if Average Handle Time (“AHT”) increases (but not as a result of new hires) by more than 20% for two consecutive months, then the Parties will agree to consider process improvements and/or a pricing adjustment that is acceptable to both Parties. Further, both Parties agree that if AHT increases (but not as a result of new hires) by more than 10% for three consecutive months, then the Parties will agree to consider a pricing adjustment that is acceptable to both Parties. Any agreed upon price adjustments must be in writing and will be dated back to the month where AHT originally increased.

AHT data provided for each Company Affiliate (CMP, NYSEG, RGE) in the RFP document will be used as a baseline in determining AHT metrics, and will be compared by month against the monthly data provided in the RFP. For example, August 2016 for CMP will be compared against the August CMP data in the RFP, September against September, etc. It is further agreed by both Parties that any agents that have been on the phone for less than 60 days will not be included in the calculation.

\*Contact with Customer is defined as any time voice contact/conversation takes place including but not limited to Customer of Record, Customer Authorized Party, verbal message left with another Unauthorized person, or messages left on an answering machine or other recording device.

Company Affiliate requires one day and one night "pass"/attempt. Supplier may, at no cost to the Company, opt to conduct multiple "passes"/attempts (see Example 4 below).

Outbound Cost Per Call as defined below:

Automated Outbound: Outbound call placed by the dialer that does not require agent intervention. This call type may include a Blaster or an Interactive Response/Opt Out.

Predictive Agent – No Contact with Customer: Outbound call placed by dialer where no contact has been made. Including results: Ring – no answer/busy signal/hang up/invalid number

Predictive Agent – Contact with Customer: Outbound call placed by dialer where agent intervention is required. This call type may include voice-to-voice contact with a person or answering machine message left by live agent or dialer

Examples below for illustrative purposes only:

Example 1:

- First Day Call pass dialed at 11:00 AM
  - Result: No answer, answering machine, no message left
- Second Day Call pass dialed at 2:30 PM
  - Result: No answer, message left on answering machine by agent or dialer

In this example, the call is considered Predictive Agent – Contact with Customer. The Company Affiliate will be invoiced for the second pass as Predictive Agent – Contact with Customer.

Example 2:

- First Day Call pass dialed at 11:00 AM
  - Result: No answer, answering machine, no message left OR Ring – No answer/fax/busy signal
- Second Day Call pass dialed at 2:30 PM
  - Result: Ring – No answer/fax/busy signal

In this example, the call is considered "no contact". The Company Affiliate will be not be Invoiced for the attempts as no contact was made.

Example 3:

- First Day call pass dialed at 11:00 AM
  - Result: No answer, answering machine, no message left
- Second Day Call pass dialed at 2:30 PM
  - Result: Voice-to-Voice contact with person

In this example, the call is considered Predictive Agent – Contact with Customer. The Company Affiliate will be invoiced for a single day pass as Predictive Agent – Contact with Customer.

Example 4:

- First Day Call pass dialed at 11:00 AM
  - Result: No answer, answering machine, message left on answering machine by agent or dialer
- Second Day Call pass dialed at 2:30 PM (at Supplier discretion and no cost to Company)
  - Result: No answer, message left on answering machine by agent or dialer
- Night Call pass dialed at 6:30 PM
  - Result: No answer, message left on answering machine by agent or dialer

In this example, the call is considered Predictive Agent – Contact with Customer. The Company Affiliate will be invoiced for one day call pass as Predictive Agent – Contact with Customer and one Night pass as Predictive Agent – Contact with Customer.

- (a) For Inbound telephone calls that require an internal transfer between skillset within Supplier organization Company Affiliate will pay one time, for the higher Standard Rate Per Call (i.e. collections customer to be transferred to Service Initiation/MIMO skillset, Company Affiliate will pay only the Service Initiation price per call).

**Service Rate:**

Upon completion of the initial training period, Company Affiliate shall pay to the Supplier, the Standard Fee as set forth in the Standard Service Rate Table above.

**Initial Training Period Fee:**

- (a) Company Affiliate shall pay to the Supplier a fee ("Initial Training Period Fee") as per staffed hour rate of [REDACTED] for Supplier Personnel time spent in the initial training period plus a nesting period of two weeks, for both Collections and Service Initiation (MIMO) calls. Company Affiliate also agrees to pay the training rate for any requested training for seasonal updates.
- (b) Company Affiliate and Supplier shall meet and mutually agree upon training fee structure for IUSA Customer SmartCare project Supplier Personnel training.

## **SCHEDULE E**

### **Special Conditions**

#### **Performance Measurements, Reporting, Delivery, and Training**

##### **1. VOLUME FORECASTING**

Supplier will provide an inbound forecast to Company Affiliate based on historical information previously provided to Supplier and information Supplier has collected from its service to Company Affiliate on a monthly basis. This forecast will be provided on or before the 10<sup>th</sup> of each month. By the 15<sup>th</sup> of each month the Company Affiliate will review, suggest adjustments in accordance with this Agreement as necessary and approve the forecast 60 days prior to the start of the forecasted month. As an example, Company Affiliate will approve the forecast for July by May 15<sup>th</sup>.

If the forecasted call volumes exceed 110% in any month then Supplier may be relieved of obligations related to the minimum service level requirement for the month. If the forecasted volume exceeds 110% and the Abandoned Rate (not to include "abandoned" for Virtual Hold opt out) is 8.00% or less, the Supplier will not be subject to minimum service level requirement penalties. If the Abandoned Rate (not to include "abandoned" for Virtual Hold opt out) is greater than 8.00% the Supplier will be subject to minimum service level requirement penalties.

##### **2. PERFORMANCE LEVEL AGREEMENT – COLLECTION EFFECTIVENESS**

- (a) The Collection Effectiveness is measured at a Company Affiliate basis and the target metric will be measured at two (2) levels:
  - 1. % of Collections calls answered by Supplier Personnel that resulted in payment
  - 2. Average dollar amount collected per Collections call by Supplier Personnel
- (b) Incentive eligibility requires that the Supplier must exceed BOTH metrics at a Company Affiliate level. If Supplier does not meet or exceed BOTH metrics Supplier will be subject to penalties as stated below. If Supplier exceeds or misses only one (1) metric, no incentive or penalty will be imposed. Collection Effectiveness incentives and metrics will not take effect until ninety (90) days after full ramp. Full ramp date will be determined based on a mutually agreed upon implementation plan.
  - i. If the Supplier meets or exceeds the set Collection Effectiveness goals, per Company Affiliate, the Supplier will be eligible to receive a \$[REDACTED] cent per answered inbound Collections call incentive. The incentive will only apply to the Company Affiliate where the Affiliate metric was met.
  - ii. If the Supplier does not meet both Collection Effectiveness goals, per Company Affiliate, the Supplier will be subject to a \$[REDACTED] cent per answered inbound Collections call penalty. The penalty will only apply to the Company Affiliate where the Affiliate metric was not met.



Company Affiliate	Average Amount Collected per call goal, per month*	% of Answered Collections Calls Resulting in Payment goal, per month*
NYSEG		26.00%
RG&E		25.00%
CMP		36.00%
* Goals outlined in this Table will be effective for the first contract year and will be reviewed annually		

Annually, the Collection Effectiveness baseline will be re-evaluated and the target updated, if agreed by both Parties. Included in the evaluation will be a determination of whether to keep the goal on an annual basis by Company Affiliate, or whether to make the goal a monthly goal for each Company Affiliate. The Company Affiliate will consider the previous twelve (12) months Supplier Collection Effectiveness to determine if the metric will be changed. If the previous 12 month average is equal to or greater than the previous year's target metric, the new year's Collection Effectiveness metric will be increased. If the previous 12 month average is less than the previous year's target metric, the new year's Collection Effectiveness will remain the same as the previous year's target metric. The possibility exists that one metric could change while the other metric remains the same as the previous year.

If Supplier achieves Collection Effectiveness year to date results greater than the average monthly Supplier target, all Collection Effectiveness penalties shall be returned at year end.

### 3. OTHER PERFORMANCE LEVEL AGREEMENTS

Iberdrola USA is mandated to achieve each of its regulated service quality indicators. Failure to meet any set target may result in the applicable Company Affiliate to pay out a significant monetary penalty. For this purpose Iberdrola USA sets Performance Level agreements in the area of service level, state rule compliance, customer satisfaction & quality and system performance.

### 4. SERVICE LEVEL REQUIREMENTS

Company Affiliate	Collection Calls	Service Initiation Calls	Year End Target
CMP*	83.00%	83.00%	83.00%
NYSEG**	70.00%	N/A	70.00%
RG&E**	70.00%	83.00%	70.00% / 83.00%

\*CMP Inbound Calls Regulatory SL is calculated as: (Calls Answered in 30 seconds or less + Calls Abandoned in 30 seconds or less) / (All Calls Answered + All Calls Abandoned)

\*\*NY Inbound Calls Regulatory SL is calculated as: (Calls Answered + Total Abandoned Calls - Calls Answered after 30 seconds - Calls Abandoned after 30 seconds) / (Calls Answered + Total Abandoned)

- (a) Supplier shall measure Service Level two decimal places out to ensure accuracy with and Performance Level Targets. For example, if SL is reported as 82.91% for the month of May, the Performance Targets is considered "not met" and will not be eligible for incentive payout.

- (b) For each call type, each percentage point above the required service level target, the Supplier will be eligible for an incentive, in the amount of \$[REDACTED] cents, per answered Inbound call, not to exceed \$[REDACTED] cents per call. For each percentage point below the required service level target, the Supplier will be subject to a penalty, in the amount of \$[REDACTED] cents, per answered Inbound call, not to exceed \$[REDACTED] per call.
- (c) If the year-end targets given above are achieved for any of the Company Affiliate, the applicable Company Affiliate will return all service level penalty fees paid by the supplier for the applicable year. The year-end service level penalty recovery shall not include positive service level results for any period throughout the year in which Company Affiliate supported the Supplier Inbound call volume for four (4) hours or more in order to maintain service level targets.

**5. PUBLIC UTILITIES COMMISSION COMPLIANCE**

Supplier must comply with state public utilities commission ("PUC"/PSC) rules and regulations. All complaints reported to the state PUC/PSC by a Customer will be reviewed by applicable Company Affiliate to ensure compliance on the calls handled by a Supplier Personnel. For every non-compliant action, per contract year, as determined by the Company Affiliate, a penalty fee will be assessed and deducted from the Supplier monthly invoice according to the following structure:

Non-Compliance Actions Based on Annual Volumes, per contract year	Penalty Fee for Each Non-Compliant Action
1 - 30	[REDACTED]
31-60	
61-80	
81-100	
101-150	
151 or greater	

**6. QUALITY ASSURANCE**

**(a) Quality Monitoring**

- i. Supplier Personnel directly supporting Company Affiliate must maintain a strong level of knowledge relating to the policies and procedures of any Company Affiliates' credit & collection and service Initiation/termination processes.
- ii. Supplier must achieve a monthly Quality Monitoring average of 90.00% for all Supplier calls monitored by designated Supplier Personnel. Supplier may appeal any Company Affiliate monitored call rating and request a calibration session to be performed. The calibration rating will replace the rating provided by the Company Affiliate.
- iii. Quality Monitoring must be conducted on a monthly basis for all representatives and will be all inclusive of any call types handled by Supplier staff. The frequency of monitoring will be completed according to the terms in Table 1 below

TABLE 1	
Term of Agent, per skillset	Minimum # of Quality Monitoring*
First 60 days~	10 per agent**
2 - 6 months	10 per agent**
6 - 9 months	8 per agent**
9 - 12 months	8 per agent**
12 months or longer	5 per agent**

~ During the first 60 days of Production agents must maintain a monthly average of 85.00% or greater.

\*After the first two (2) months of Production, a minimum monthly average score of 90.00% is required, per agent. If the minimum average score is not achieved the agent will not progress to the next "level" of Quality Monitoring terms.

\*\*If during the first 6 months an average agent's score is less than 90% Company Affiliate reserves the right to request that the agent to be removed from the IUSA project.

- iv. Supplier agrees to at least one side-by-side monitoring session per quarter to establish a baseline for agent's knowledge and ability to handle Company Affiliate calls.

#### (b) Error Reporting

Supplier will track and report to the Company Affiliate on a monthly basis all errors found/communicated by project staff including: user name, how many errors made and specific error type description. It will be the responsibility of Supplier Personnel to provide and coach to the error to prevent future occurrences. If sufficient improvement is not made the Company Affiliate reserves the right to request that the employee be removed from the IUSA project.

#### (c) First Call Resolution

First Call Resolution (FCR), as pertaining to the Supplier, is defined as the percentage of customer contacts "satisfied" on the first telephone call. The Company Affiliate will monitor, track and report FCR results to the Supplier on a monthly basis. The Supplier will utilize the "Next Best Action" model developed by the Company Affiliate to support FCR. The Supplier target will be 88% Satisfaction on [REDACTED] Supplier contacts resulting in multiple customer call backs will be reported by the Company Affiliate and the Supplier will provide individual coaching and/or training as necessary to resolve the issue.

### 7. CUSTOMER SATISFACTION

- (a) The IUSA Customer Contact survey selects random account owners every week; these account owners have placed a call into the Supplier call center.
- (b) Customer Satisfaction target is determined by the answer to the following question to the customer:
  - 1. Overall, how satisfied are you with how <utility name> handled the situation you contacted us about? Are you:
    - i. Satisfied
    - ii. Somewhat Satisfied
    - iii. Neither Satisfied nor Dissatisfied

- iv. Somewhat Dissatisfied
- v. Dissatisfied

2. A rating of Satisfied (i) or Somewhat Satisfied (ii) will be considered a "Positive" score; any other rating will be considered "Negative".

- (c) Customer Satisfaction will be measured monthly at both the IUSA and at the Company Affiliate level. The IUSA per call type target metric will be an average of all three Affiliate scores that must meet or exceed 90.00%. The Company Affiliate per call type target metric will be 87.00% for each Company.
  - ii. For each call type, if the Supplier meets or exceeds the IUSA Customer Satisfaction metric of 90.00%, the Supplier will be eligible for an incentive, per answered inbound call, in the amount of [REDACTED] cents per answered call for the month.
  - iii. For each call type, if the Supplier does not meet any single Company Affiliate metric of 87.00%, the Supplier will be subject to a penalty, in the amount of [REDACTED] cents, per answered inbound call, not to exceed [REDACTED] per call. The decreased cost per call will only apply to the Company Affiliate where the Affiliate metric was not met.

#### **8. PERFORMANCE LEVEL REQUIREMENT INCENTIVE/PENALTY ELIGIBILITY**

- (a) In any month, if daily outbound calling campaigns are not 100% completed without prior Company Affiliate approval, Supplier is not subject to receive any incentives. This applies to all Performance Level targets: Service Level, Customer Satisfaction and Collection Effectiveness. During cold weather period which runs from November 1 – April 15 of each year, the Wednesday NY file may be completed over a three (3) day timeframe (Wednesday, Thursday and Friday).
- (b) In any month, if Company Affiliate is required to assist with Inbound call volume for a minimum of four (4) hours per day, for three (3) business days or more, due to Supplier performance issues the Supplier will not be eligible for any incentives. This applies to all Performance Level targets: Service Level, Customer Satisfaction and Collection Effectiveness.

#### **9. CHANGE IN PERFORMANCE LEVEL INDICATORS AND TARGET REQUIREMENTS**

If and to the extent that during the term of this MSA, there is a change in any Performance Level indicator or target requirement that alters the Performance Level indicator or target requirements required of a Company Affiliate, Supplier and such Company Affiliate agree to negotiate in good faith to effect such modifications to the Services Provided as shall be reasonably necessary to accommodate such change. The intent of Supplier and Company Affiliate is that any such modification will preserve, as closely as possible, the basic intent and substance of this MSA, which is (i) for Supplier to provide the Services envisioned hereunder while meeting the Performance Levels under the Performance Level indicators/target requirements that are applicable to Company Affiliates and (ii) for Supplier to be fairly compensated for providing such Services.

#### **10. IBERDROLA USA CUSTOMER SMARTCARE**

Company Affiliates are scheduled to transition current billing systems (CMP – CSS GUI, NY – SAP CCS) to SAP CRM during the period of this contract. SAP CRM conversion is anticipated as soon as the second quarter 2017 for CMP and as soon as 2018/2019 for NY Companies.

Prior to the commencement of the IUSA Customer SmartCare transition, Company Affiliate(s) and Supplier shall agree upon Performance Metrics during transition period. Parties shall agree, in writing, to transition performance targets and incentive/penalty expectations.

**11. SYSTEM PERFORMANCE**

- a. It is Company Affiliate's expectation that Supplier will have redundant systems to ensure system availability in the event of failures of primary applications.
- b. In the event that Supplier experiences a failure of primary applications, such as telephony connection, which shall prevent Supplier from providing Services and telephone calls must be routed back to the Company Affiliate's internal call center for handling, then such Company Affiliate may assess in the month such event occurred a [REDACTED] penalty to Supplier if Company Affiliate is required to handle such telephone calls for more than four (4) hours during Normal Business Hours of an Normal Business Day. If the event extends into additional Normal Business Days, regardless of number of hours, Company Affiliate may assess a [REDACTED] per day, penalty to Supplier for any call handling by the Company Affiliate.

**12. LIMITATIONS ON ACTIVITIES OF SUPPLIER PERSONNEL**

- a. Supplier, its Affiliates and their employees are not permitted to perform any transaction(s) on their own Accounts and/or the Accounts of family members, friends or other Supplier or Affiliate employees. A "transaction" includes accessing an Account in any way and for any purpose, including viewing any data or information.
- b. Supplier will complete periodic reviews to ensure compliance with these provisions. Supplier will immediately notify the applicable Company Affiliate of all violations of this policy. Company Affiliate management and Supplier will investigate any such violation and agree upon action to be taken, which may include removing the Supplier Personnel, Affiliate or employee from providing Services to any Company Affiliate.

**13. SUPPLIER PERSONNEL BACKGROUND CHECKS**

- a. Supplier, at its expense shall conduct a background check for each employee, agent, representative, contractor or independent contractor (collectively, "Representatives"), as well as for the Representatives of its subcontractors, who will provide work or services to the Company or will have access to Company computer systems, or Company sensitive data including reporting, invoice detail, quality monitoring, etc., either through on-site or remote access (collectively, "Supplier Representatives"). Supplier Representatives, for the purpose of this requirement, include such temporary staff as office support, custodial service and third party vendors used by Supplier to provide or assist in the provision of, work or services to the Company hereunder. Supplier's obligations with respect to required background checks shall include those obligations specified for Supplier in the Iberdrola USA – Supplier Background Check Policy, as such Policy may be revised and/or supplemented from time to time, which Policy is incorporated herein and made part of this Agreement reference (the "Policy"). Background checks are to be conducted using the Supplier's background check vendor consistent with the process developed with the Company under this Agreement. The minimum Background Check process shall include, but not be limited to the following checks:
  - 1. Social Security Number Verification
  - 2. Motor Vehicle Report
  - 3. Prohibited Parties Database Search\Debarment Lists
  - 4. County Criminal History Search in each county where a Supplier or Supplier Representative has resided during the seven (7) years preceding the search
  - 5. National Sex Offender Registry.

- a. The Background Check must be completed prior to initial access by Supplier Representative(s) and shall be repeated at the frequency specified in this Policy. Any Supplier Representative who separates employment or other commercial relationship with the Supplier must undergo another Background Check prior to renewed access to the Company. The Company Department charged with managing the relationship with the Supplier hereunder (the "Company Liaison") shall have the right to require more frequent Background Checks of Supplier Representatives or to require checks from other or additional sources than those listed above, and shall have the right to require that the Supplier furnish Background Check results to them. The Company reserves the right to audit Supplier's Background Check process using either a third party auditor or representatives from the Company's Audit Department or the Company Liaison. All Supplier Representatives are responsible to self-disclose any misdemeanor or felony conviction(s) that occur during the course of their assignment hereunder within three (3) business days of the conviction. The conviction must be reported to the Supplier and the Company Liaison. If reported first to the Supplier, the Supplier shall notify the Company Liaison and the Company Director of Security within three (3) days of learning of the conviction. If, at any time during the term of this Agreement, it is discovered that any Supplier Representative has a criminal record that includes a felony or misdemeanor conviction, the Supplier is required to inform the Company Liaison who will assess the circumstances surrounding the conviction, time frame, nature, gravity and relevancy of the conviction to the job duties to determine whether the Supplier Representative will be placed on, or continue in, the assignment with the Company, and consistent with, and to the extent permitted by, applicable state law. The Company may withhold its consent in its sole and absolute discretion. The failure of the Supplier to comply with the terms of this provision shall constitute good cause for termination of this Agreement by the Company, in whole or in part.
- b. Supplier shall provide a certification form in substantially the same or similar format as the form provided in Exhibit 1 to this Schedule E.

**14. COMPANY SYSTEM CONVERSION**

Supplier and Company understand and agree that the Company will be undertaking a system conversion in 2017/2018. As the conversion schedule and plan is finalized, the Parties agree to negotiate in good faith a conversion plan that provides for a successful conversion, and to adjust pricing, staffing, and key metrics as necessary to best meet the business goals of the conversion.

### Exhibit 1 to Schedule E

#### **Iberdrola USA – Contractor Background Check Policy**

Contractor, at its expense, shall conduct a background check for each employee, agent, representative, contractor, or independent contractor (collectively, "Representatives"), as well as for the Representatives of its subcontractors, who will provide work or services to the Company or who will have access to Company computer systems, either through on-site or remote access (collectively, "Contractor Representatives"). Contractor Representatives, for the purpose of this requirement, include such temporary staff as office support, custodial service, and third party vendors used by Contractor to provide, or assist in the provision of, work or services to the Company hereunder. Contractor's obligations with respect to required background checks shall include those obligations specified for Contractor in the Iberdrola USA – Contractor Background Check Policy, as such Policy may be revised and/or supplemented from time to time, which Policy is incorporated herein and made part of this Agreement by reference (the "Policy"). Background checks are to be conducted using the Contractor's background check vendor consistent with the process developed with the Company under this Agreement. The minimum Background Check process shall include, but not be limited to, the following checks:

- a) Social Security Number Verification [REDACTED]
- ~~b) Motor Vehicle Report [REDACTED]~~
- c) Prohibited Parties Databases [REDACTED]
- d) County Criminal History Search in each county where a Contractor or Contractor Representative has resided during the seven (7) years preceding the search.
- e) National Sex Offender Registry.

The Background Check must be completed prior to initial access by Contractor Representative(s) and shall be repeated at the frequency specified in the Policy. Any Contractor Representative who separates employment or other commercial relationship with the Contractor must undergo another Background Check prior to renewed access to the Company.

The Company Department charged with managing the relationship with the Contractor hereunder (the "Company Liaison") shall have the right to require more frequent Background Checks of Contractor Representatives or to require checks from other or additional sources than those listed above, and shall have the right to require that the Contractor furnish Background Check results to them. The Company reserves the right to audit Contractor's Background Check process using either a third-party auditor or representatives from the Company's Audit Department or the Company Liaison. All Contractor Representatives are responsible to self-disclose any misdemeanor or felony conviction(s) that occur during the course of their assignment hereunder within three (3) business days of the conviction. The conviction must be reported to the Contractor and the Company Liaison. If reported first to the Contractor, the Contractor shall notify the Company Liaison and the Company Director of Security within three (3) days of learning of the conviction. If, at any time during the term of this Agreement, it is discovered that any Contractor Representative has a criminal record that includes a felony or misdemeanor conviction, the Contractor is required to inform the Company Liaison who will assess the circumstances surrounding the conviction, time frame, nature, gravity, and relevancy of the conviction to the job duties to determine whether the Contractor Representative will be

placed on, or continue in, the assignment with the Company, and consistent with, and to the extent permitted by, applicable state law. The Company may withhold its consent in its sole and absolute discretion. The failure of the Contractor to comply with the terms of this provision shall constitute good cause for termination of this Agreement by the Company, in whole or in part.



## Iberdrola USA – Contractor Background Check Policy

### Contractor Certification Form

The undersigned agent of \_\_\_\_\_ **certifies** that the listed employees, contractors, or subcontractors have met the minimum requirements outlined by Iberdrola USA Background Check Policy as documented in {insert contractor name} contract with {insert IUSA affiliate vendor name} to receive Contractor Electronic or Physical Access. **In addition, it is the responsibility of the vendor to notify the Company of all personnel changes to include additions as well as voluntary or involuntary terminations. *Additions and Voluntary terminations are to be communicated within seven (7) calendar days and involuntary terminations must be communicated immediately.***

Each of the individuals listed have:

- ☒ Been subject to and successfully completed a background check as required by and at least at a minimum, verification of identify/ Social Security Number, driver's license, and a seven-year criminal history.

NOTE: An annual attestation of background check information is to be provided by the vendor no later than October 31st of each year. Please provide dates in the mm/dd/yyyy format.

Employee Name	Employer	Date of Background Check

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Position

## SCHEDULE F

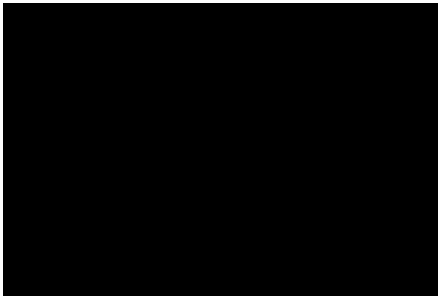
### Notices

Along with all other correspondence requirements included in this Master Agreement, any notice, request, approval or other document required or permitted to be given under this Master Agreement shall be in writing and shall be deemed to have been sufficiently given when delivered in person or deposited in the U.S. Mail, postage prepaid, addressed as specified herein or to such other address or addresses as may be specified from time to time in a written notice given by such party. The parties shall acknowledge in writing the receipt of any such notice delivered in person.

All communications to IUMC shall be directed to:

Iberdrola USA Management Corporation  
Contract Administration  
89 East Avenue  
Rochester, NY 14649  
Phone: 585-724-8028  
Fax: 585-771-2820

All communications to Supplier shall be directed to:



## **SCHEDULE G**

### **Insurance Requirements**

Before commencing Services, the Supplier shall procure and maintain at its own expense for a period of two years beyond completion of the Services, the insurance types, limits, terms, and conditions listed in Section 1 below. The amounts as specified are minimums only. The actual amounts above the minimums shall be determined by the Supplier. In addition, for any Services that are authorized to be subcontracted, the supplier shall require each subcontractor to procure and maintain all insurance as outlined in section one.

**IF YOU DO NOT HAVE A CURRENT CERTIFICATE ON FILE WITH CUSTOMER** prior to commencement of Services, Certificates of Insurance evidencing supplier's and/or subcontractor's possession of insurance as outlined in Section 1 shall be filed with Customer for its review.

Certificates of Insurance should be mailed to the Procurement Department at the following address:

**Iberdrola USA Management Corporation  
Procurement Department/Insurance Cert.  
89 East Avenue  
Rochester, NY 14649-0001**

#### **1. Required Insurance Coverage's and Minimum Amounts**

Each insurance policy shall be placed with an insurance company licensed to write insurance in the State where the Services are to be performed and shall have an A.M. Best's Rating of not less than "B+" and a policyholder surplus of at least [REDACTED]

Each insurance policy, except Workers' Compensation and Employers' Liability, shall be endorsed to add Customer as an additional insured. All insurance where Customer is an additional insured must contain provisions which state that the policy will respond to claims or suits by Customer against the Supplier/Consultant/ Labor supplier/etc. In addition, Customer should be notified of any reduction in the aggregate policy limits.

Each policy shall be endorsed to provide a minimum of thirty (30) days prior written notice of cancellation, intent not to renew, or material change in coverage.

Each policy shall be endorsed to provide a breach of warranty clause.

In the event Supplier and/or Subcontractor has a policy(ies) written on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the commencement of Services under this agreement. In addition, the Supplier and/or Subcontractor will guarantee future coverage for claims arising out of events occurring during the course of this agreement.

All of the insurance required hereunder will be primary to any or all other insurance coverage in effect for Customer.

#### **1.1 Workers' Compensation and Employers' Liability Insurance in accordance with the statutory requirements of the State of New York. For Services that are conducted outside of New York State, the**

minimum limit for Employers' Liability Insurance should be \$ [REDACTED] each accident, [REDACTED] disease-policy limit, \$ [REDACTED] disease-each employee.

- 1.2 Automobile Liability insuring any auto, all owned autos, hired autos, and non-owned autos with a bodily injury and property damage combined single limit of \$ [REDACTED] per occurrence.
- 1.3 General Liability (Comprehensive or Commercial Form), including coverage for Premises/Operations, Underground/ Explosion & Collapse Hazard, Products/Completed Operations, Contractual Liability specifically insuring the attached Indemnity Agreement, Independent Contractors, Broad Form Property Damage, and Personal Injury, in the amount of \$ [REDACTED] per occurrence and [REDACTED] aggregate.

The amount of insurance may be satisfied by purchasing primary coverage in the minimum (or greater) amounts specified or by purchasing a separate excess Umbrella Liability policy together with lower limit primary coverage.

Each General and/or Umbrella Liability Insurance policy shall be endorsed with the following Cross Liability clause: In the event of claims being made by reason of personal and/or bodily injuries suffered by any employee or employees of one insured hereunder for which another insured hereunder is or may be liable, then this policy shall cover such insured against whom a claim is made or may be made in the same manner as if separate policies had been issued to each insured hereunder, except with respect to limits of insurance. In the event of claims being made by reason of damage to property belonging to any insured hereunder for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is made or may be made in the same manner as if separate policies had been issued to each insured hereunder, except with respect to the limits of insurance.

None of the requirements contained herein as to types, limits and approval of insurance coverage to be maintained by Supplier or Subcontractors are intended to, nor shall they in any manner limit or qualify the liabilities and obligations assumed by Supplier or Subcontractor under this agreement.

**Schedule H**  
**Data Security Rider**

**1.1. Privacy and Data Security.**

(a) To the extent that [REDACTED] (sometimes hereinafter referred to as "VENDOR") is regularly afforded access in any way to "Personal Data" or "Company Data" as defined below, this Rider shall apply with respect to Personal Data and Company Data.

(b) The following definitions are relevant to this Rider:

(i) "Personal Data" means any information that can be used to identify, locate, or contact an individual, including an employee, customer, or potential customer of CUSTOMER (also sometimes hereinafter referred to as "Company"), including, without limitation: (A) first and last name; (B) home or other physical address; (C) telephone number; (D) email address or online identifier associated with an individual; (E) "Sensitive Data" as defined below; (F) ZIP codes; (G) employment, financial or health information; or (H) any other information relating to an individual, including cookie information and usage and traffic data or profiles, that is combined with any of the foregoing.

(ii) "Sensitive Data" is that subset of Personal Data, including Social Security number, passport number, driver's license number, or similar identifier, or credit or debit card number, whose unauthorized disclosure or use could reasonably entail enhanced potential risk for the data subject.

(iii) "Company Data" means any information that relates to the operation or functionality of plants, factories, networks, or grids of the Company or to which the Company has access, including, without limitation, Critical Infrastructure Information and internal financial information.

(iv) "Critical Infrastructure Information" means engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that (A) relates details about the production, generation, transmission, or distribution of energy; (B) could be useful to a person planning an attack on critical infrastructure; (C) is exempt from mandatory disclosure under the Freedom of Information Act; and (D) gives strategic information beyond the location of the critical infrastructure.

(v) "Processing" (including its cognate, "process") means any operation, action, error, omission, negligent act, or set of operations, actions, errors, omissions, or negligent acts that is performed upon Personal Data or Company Data, whether or not by automatic means, including, without limitation, collection, recording, organization, storage, access, adaptation, alteration, retrieval, consultation, use, disclosure, dissemination, exfiltration, taking, removing, copying, making available, alignment, combination, blocking, deletion, erasure, or destruction.

(vi) "Data Security Breach" means: (A) the loss or misuse (by any means) of Personal Data or Company Data; (B) the inadvertent, unauthorized and/or unlawful Processing, corruption, modification, transfer, sale or rental of Personal Data or Company Data; or (C) any other act or omission that compromises the security, confidentiality, or integrity of Personal Data or Company Data.

(vii) "Technical and Organizational Security Measures" means security measures, consistent with the type of Personal Data or Company Data being Processed and the services being provided by VENDOR, to protect Personal Data or Company Data, which measures shall implement industry accepted protections which may include physical, electronic and procedural safeguards to protect the Personal Data or Company Data supplied to VENDOR against any Data Security Breach, and any security requirements, obligations, specifications or event reporting procedures set forth in any Schedule to this Agreement. As part of such security measures, VENDOR shall provide a reasonably secure environment for all Personal Data and Company Data and any hardware and software (including servers, network, and data components) to be provided or used by VENDOR as

part of its performance under this Agreement on which Personal Data and Company Data is contained to the extent the same are located on VENDOR's premises.

(viii) "Losses" shall mean all losses, liabilities, damages, and claims and all related or resulting costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties).

(c) Personal Data and Company Data shall at all times remain the sole property of CUSTOMER, and nothing in this Agreement will be interpreted or construed as granting VENDOR any license or other right under any patent, copyright, trademark, trade secret, or other proprietary right to Personal Data and Company Data.

(d) VENDOR shall not use independent contractors or provide Personal Data or Company Data to independent contractors or other personnel that are not full-time employees of VENDOR without CUSTOMER's prior written approval before doing so.

(e) VENDOR shall Process Personal Data and Company Data only on the instruction of CUSTOMER and in accordance with this Agreement and privacy and security laws applicable to VENDOR's services or VENDOR's possession or Processing of Personal Data and/or Company. CUSTOMER hereby instructs VENDOR, and VENDOR hereby agrees, to Process Personal Data or Company Data as necessary to perform VENDOR's obligations under this Agreement and for no other purpose.

(f) VENDOR shall not create or maintain data which are derivative of Personal Data or Company Data except for the purpose of performing its obligations under this Agreement and as authorized by CUSTOMER.

(g) As a condition to starting work, VENDOR's employees shall acknowledge in writing their agreement to comply with the terms of the Company's Acceptable Use Requirements set forth in Schedule C hereto, as such Acceptable Use Requirements may be modified or supplemented from time-to-time upon notice from the Company.

(h) At any and all times during which VENDOR is Processing Personal Data or Company Data, VENDOR shall:

(i) Comply with all applicable privacy and security laws to which it is subject, and not, by act or omission, place CUSTOMER in violation of any privacy or security law known by VENDOR to be applicable to CUSTOMER;

(ii) Have in place appropriate and reasonable Technical and Organizational Security Measures to protect the security of Personal Data and Company Data and prevent a Data Security Breach, including, without limitation, a breach resulting from or arising out of VENDOR's internal use, Processing or other transmission of Personal Data and Company Data, whether between or among VENDOR's subsidiaries and affiliates or any other person or entity acting on behalf of VENDOR;

(iii) Safely secure or encrypt all Sensitive Data and Company Data during storage or transmission;

(iv) Except as may be necessary in connection with providing Support Services (and provided that immediately upon the need for such Personal Data and Company Data ceasing, such Personal Data is immediately destroyed or erased), not use or maintain any Personal Data or Company Data on a laptop, hard drive, USB key, flash drive, removable memory card, smartphone, or other portable device or unit;

(v) Notify CUSTOMER no later than one (1) day from the date of obtaining actual knowledge of any Data Security Breach and, at VENDOR's cost and expense, assist and cooperate with CUSTOMER concerning

any disclosures to affected parties and other remedial measures as requested by CUSTOMER or required under applicable law;

(vi) Not permit any officer, director, employee, agent, other representative, subsidiary, affiliate, independent contractor, or any other person or entity acting on behalf of VENDOR to Process Personal Data or Company Data unless such Processing is in compliance with this Agreement and is necessary in order to carry out VENDOR's obligations under this Agreement;

(vii) Not disclose Personal Data or Company Data to any third party (including, without limitation, VENDOR's subsidiaries and affiliates and any person or entity acting on behalf of VENDOR) unless with respect to each such disclosure: (A) the disclosure is necessary in order to carry out VENDOR's obligations under this Agreement; (B) such third party is bound by the same provisions and obligations set forth in this Agreement; (C) VENDOR has received CUSTOMER's prior written consent; and (D) VENDOR shall remain responsible for any breach of the obligations set forth in this Agreement to the same extent as if VENDOR caused such breach; and

(viii) Establish policies and procedures to provide all reasonable and prompt assistance to CUSTOMER in responding to any and all requests, complaints, or other communications received from any individual who is or may be the subject of any Personal Data or Company Data Processed by VENDOR to the extent such request, complaint or other communication relates to VENDOR's Processing of such Personal Data.

(ix) Establish policies and procedures to provide all reasonable and prompt assistance to CUSTOMER in responding to any and all requests, complaints, or other communications received from any individual, government, government agency, regulatory authority, or other entity that is or may have an interest in the Personal Data or Company Data, exfiltration of Personal Data or Company Data, disclosure of Personal Data or Company Data, or misuse of Personal Data or Company Data to the extent such request, complaint or other communication relates to VENDOR's Processing of such Personal Data or Company Data.

(x) Not transfer any Personal Data or Company Data across a country border, unless directed to do so in writing by CUSTOMER, and VENDOR agrees that CUSTOMER is solely responsible for determining that any transfer of Personal Data or Company Data across a country border under this Contract complies with the applicable data protection laws and this Contract.

(i) At the time of the signing of this agreement, and at the time of any CUSTOMER request, VENDOR shall provide evidence that it has established and maintains Technical and Organizational Security Measures governing the Processing of Personal Data and Company Data appropriate to the Processing and the nature of the Personal Data and Company Data to be protected. To the extent VENDOR maintains Personal Data and Company Data at its location, CUSTOMER shall have the right to conduct onsite inspections and/or audits (with no advance notice to VENDOR) of VENDOR's information security protocols, and VENDOR agrees to cooperate with CUSTOMER regarding such inspections or audits; provided, any such inspections or audits shall be conducted during normal business hours and in a manner so as to minimize any disruptions to VENDOR's operations. VENDOR will promptly correct any deficiencies in the Technical and Organizational Security Measures identified by CUSTOMER to VENDOR.

(j) VENDOR shall return, delete, or destroy, or cause or arrange for the return, deletion, or destruction of, all Personal Data and Company Data subject to this Agreement, including all originals and copies of such Personal Data and Company Data in any medium and any materials derived from or incorporating such Personal Data and Company Data, upon the expiration or earlier termination of this Agreement, or when there is no longer any legitimate business need (as determined by CUSTOMER) to retain such Personal Data and Company Data, or otherwise on the instruction of CUSTOMER, but in no event later than ten (10) days from the date of such expiration, earlier termination, expiration of the legitimate business need, or instruction. If applicable law prevents or precludes the return or destruction of any Personal Data or Company Data, VENDOR shall notify CUSTOMER of such reason for not returning or destroying such Personal Data and Company Data and shall not Process such Personal Data and Company Data thereafter without CUSTOMER's express prior written consent.

VENDOR's obligations under this Agreement to protect the security of Personal Data and Company Data shall survive termination of this Agreement.

(k) To the extent that VENDOR is afforded regular access in any way to "Cardholder Data" as defined below and for so long as it has such access, the following requirements shall apply with respect to the Cardholder Data; provided, that the parties do not anticipate that VENDOR will have access to any Cardholder Data:

(i) VENDOR represents that it is presently in compliance, and will remain in compliance with the Payment Card Industry Data Security Standard ("PCI Standard"), and all updates to PCI Standard, developed and published jointly by American Express, Discover, MasterCard and Visa ("Payment Card Brands") for protecting individual credit and debit card account numbers ("Cardholder Data").

(ii) VENDOR acknowledges that Cardholder Data is owned exclusively by CUSTOMER, credit card issuers, the relevant Payment Card Brand, and entities licensed to process credit and debit card transactions on behalf of CUSTOMER, and further acknowledges that such Cardholder Data may be used solely to assist the foregoing parties in completing a transaction, supporting a loyalty program, providing fraud control services, or for other uses specifically required by law, the operating regulations of the Payment Card Brands, or this Agreement.

(iii) To the extent Cardholder Data is regularly maintained on the premises or property of VENDOR, VENDOR shall maintain a business continuity plan addressing the possibility of a potential disruption of service, disaster, failure or interruption of its ordinary business process, which business continuity plan provides for appropriate back-up facilities to ensure VENDOR can continue to fulfill its obligations under this Agreement.

(iv) VENDOR agrees that, in the event of a Data Security Breach arising out of or relating to VENDOR's premises or equipment contained thereon, VENDOR shall afford full cooperation and access to VENDOR's premises, books, logs and records by a designee of the Payment Card Brands to the extent necessary to perform a thorough security review and to validate VENDOR's compliance with the PCI Standards; provided, that such access shall be provided during regular business hours and in such a manner so as to minimize the disruption of VENDOR's operations.

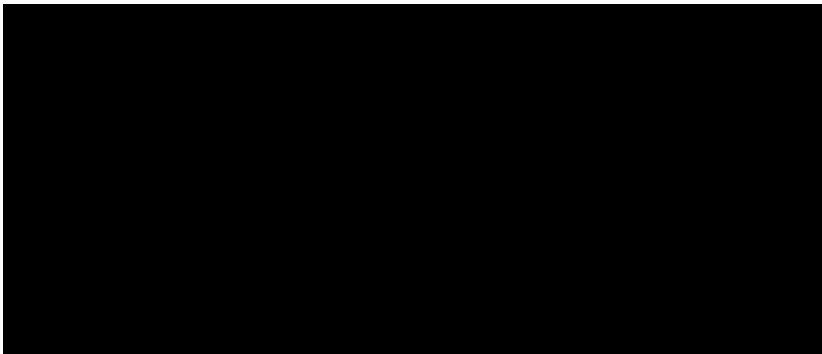
(l) To the extent VENDOR is provided regular access to Personal Data, Company Data, or Cardholder Data, VENDOR represents that the security measures it takes in performance of its obligations under this Agreement are, and will at all times remain, at the highest of the following (collectively referred to herein as "Security Best Practices"): (a) Privacy & IT Security Best Practices (as defined by ISO 27001/27002); and (b) any security requirements, obligations, specifications, or event reporting procedures set forth in Schedule A.

(m) In addition to any other insurance required to be provided by VENDOR hereunder, VENDOR shall also provide the Cyber-Insurance coverage meeting the requirements specified in Schedule B, attached hereto and made part hereof. Vendor shall also comply with the terms and conditions in Schedule B as they relate to any insurance required to be provided by VENDOR pursuant to this Agreement.

(n) Notwithstanding anything in the Agreement to the contrary, VENDOR shall indemnify, defend and hold CUSTOMER harmless from and against all Losses suffered or sustained by the CUSTOMER, its affiliates, and their respective employees, officers, representatives, or contractors, or by any third party or entity, caused by, resulting from, or attributable to VENDOR's breach or violation of any of the terms and conditions of this Data Security Rider. VENDOR's obligation to indemnify, defend, and hold CUSTOMER harmless shall survive termination or expiration of the Agreement.

(o) Failure by VENDOR to comply with any requirement of this section shall constitute a material breach of the contract.





\*\*\*

**Schedule A**

**Specific Security Requirements or Procedures**

[To Be Developed By Project As Needed]

## Schedule B

### Cyber-Insurance Requirements

(a) Vendor shall during the term of this Agreement and for a period of six (6) years thereafter have and maintain the following Insurance coverage:

(i) Cyber Errors and Omissions Policy providing coverage for acts, errors, omissions, and negligence of employees and contractors giving rise to potential liability, financial and other losses relating to data security and privacy, including cost of defense and settlement, in an amount of at least [REDACTED] dollars, which policy shall include coverage for all costs or risks associated with:

- (1) violations of data privacy or data security laws and regulations; and
- (2) cyber risks, including denial-of-service attacks, risks associated with malware and malicious code, whether designed to interrupt a network or provide access to private or confidential information; and
- (3) and other risks specific to the work performed by Vendor as shall be identified by Company.

(ii) Such coverage shall be furnished by an insurance company with an A.M. Best Financial Strength Rating of A- or better, and which is otherwise reasonably acceptable to Customer.

(b) All insurance coverage(s) provided by Vendor pursuant to this Agreement shall be primary and non-contributing with respect to any other insurance or self-insurance which may be maintained by the Customer. Each policy of insurance required to be provided by Vendor pursuant to this Agreement shall contain a "separation of insureds" clause, providing that insurance provided by the policy shall apply separately and independently for each Insured, as if the contracts insured each party separately.

(c) The Vendor (as named insured) shall pay any deductible, self-insured retention, or retrospective premium with respect to any claim or occurrence made under any of the insurance policies or coverage to be provided by the Vendor pursuant to this Agreement. Vendor's failure to pay the applicable deductible, self-insured retention, or retrospective premium for a period of five (5) days after it is due or any other failure by Vendor to maintain the insurance required by this Agreement shall constitute a material breach of this Agreement, with damages equal to at least the amount of insurance lost or not provided due to such breach.

## **Schedule C**

### **Acceptable Use Requirements**

#### **Requirements**

##### **1.0 Electronic Resources**

- 1.1 Third Party Workers shall be responsible for the appropriate use and security of information (data) when using any IUSA electronic resource.
  - a. Appropriate use shall include using authorized IUSA electronic resources as intended by IUSA in accordance with duties and responsibilities.
    - i. Using IUSA electronic resources in violation of these requirements, or any negligent or unlawful activity shall be considered inappropriate use.
- 1.2 Within each IUSA business area and/or department the determining authority and responsibility for issuance of an electronic resource shall rest with the Business Area Leader, department/ hiring manager and, in some instances, the Information Technology department (ex: laptops).
- 1.3 Third Party Workers shall be prohibited from introducing any unauthorized electronic resources or software into the IUSA environment, including without limitation any electronic resources or software that could disrupt any operations or compromise security.
- 1.4 Third Party Workers shall not store IUSA owned information/data on devices that are not issued by IUSA unless explicitly and contractually agreed by both parties.
- 1.5 IUSA electronic resources shall be protected from misuse, including, but not limited to: theft, unauthorized access, fraudulent manipulation and alteration of data, attempts to circumvent security controls, and any activity that could compromise the confidentiality, integrity, or availability of information (data).
- 1.6 Third Party Workers shall immediately report lost, compromised, or stolen electronic IUSA resources to the IT Service Desk and their IUSA department manager.
- 1.7 Any IUSA electronic resources assigned to or in the possession of a Third Party Worker shall be returned to a designated individual within his/her IUSA department when it is determined by department management that the use of those resources is no longer necessary or upon completion of the engagement for which this device was provided.
- 1.8 Authorized Third Party Workers may remotely access the IUSA IT managed corporate network utilizing only approved hardware, software and access control standards.
  - a. Remote access requests shall be approved by management and are restricted to computing resources that authorized users require to perform their job responsibilities.
- 1.9 Third Party Workers shall not share or disclose their IUSA credentials (log on ids and/or passwords) with others.

##### **2.0 Electronic Messaging**

- 2.1 Conducting IUSA business that results in the storage of IUSA owned information/data on personal or non-IUSA controlled environments, including devices maintained by a third-party with whom IUSA does not have a contractual agreement shall be prohibited.

- 2.2 All information created, sent, or received via IUSA's e-mail system(s), network(s), internet or intranet, including all e-mail messages and electronic files shall be the property of IUSA.
- 2.3 Third Party Workers shall:
- a. Use caution to ensure that the correct e-mail address is used for the intended recipient(s) (e.g., with the use of auto fill, reply all, etc.).
    - i. Forging, misrepresenting, obscuring, suppressing, or replacing a user identity on any IUSA electronic communication to mislead the recipient about the identity of the sender shall be prohibited.
  - b. Not send spam via e-mail, text messages, pages, instant messages, voice mail or other forms of electronic communication.
  - c. Posting to a public newsgroup, bulletin board, blog, listserv with an IUSA e-mail or IP address is strictly prohibited.
    - i. Avoid Representing or appearing to represent the opinions of IUSA is prohibited unless appropriately authorized to do so.
- 2.4 IUSA's electronic messaging is intended to support legitimate business requirements. Limited use of IUSA electronic messaging facilities for personal purposes shall be regarded as acceptable provided that:
- a. Messages are not used for private business or other commercial purposes, including the sale or purchase of goods or services, or engaging with other clients.
  - b. Use does not interfere with the normal performance of workers' duties,
  - c. There is no breach of the prohibitions identified in these requirements,
  - d. Messaging does not violate applicable laws, regulations, the Code of Ethics, or IUSA policies.
- 2.5 IUSA's electronic messaging shall not be used for transmitting, retrieving or storing any messages, files or attachments which constitute:
- a. Harassing or unwanted messages (including insults and 'jokes'), including offensive messages which relate to gender, race, sexual orientation, religion, disability or other similar subject matter.
  - b. Defamatory messages which adversely affect the reputation of a person or company.
  - c. Messages that violate copyright, trademark, or other intellectual property rights of another party.
  - d. Obscene materials of an offensive or sexual nature.
  - e. Offensive material that might reasonably be expected to cause distress or other personal offense to the recipient.
  - f. Messages in violation of applicable laws, regulations, the Code of Ethics, or IUSA policies.
- 2.6 Third Party Workers shall not disclose their passwords to others or permit others to use their e-mail accounts.
- 2.7 Third Party Workers shall never assume the privacy or confidentiality of electronic messages.
- a. This includes information (data) protected by local, national or international security and privacy regulations and standards as well as data protected by confidentiality agreements.
  - b. Third Party Workers shall restrict transmission of such protected information to the extent feasible and utilize security procedures made available by IUSA, and in accordance with contractual agreements.

### **3.0 Wireless Communications**

- 3.1 All wireless infrastructure devices that reside at IUSA sites and connect to an IUSA network, or provides access to sensitive or confidential information shall:
  - a. Be installed, supported and maintained by Iberdrola or its designee
  - b. Use IUSA approved authentication protocols, infrastructure, and encryption protocols
  - d. Maintain a hardware address that can be registered and tracked
- 3.2 Under no circumstances are unauthorized wireless communication devices allowed to directly connect to the internal IUSA corporate network.
- 3.3 Internet access through wireless technology (hotspots) not belonging to IUSA shall only be used if contractually agreed by IUSA and the Third Party Worker.

### **4.0 BYOD (Bring Your Own Device)**

- 4.1 IUSA does not support the use of personally owned devices (POD)<sup>1</sup> by Third Party Workers to perform business functions, except:
  - a. Short term engagements for professional services or consulting services where Third Party Workers will use third party owned equipment in the performance of contractually agreed upon duties, tasks and deliverables.

### **5.0 End Point Data Storage Devices**

- 5.1 IUSA does not recommend the use of third party or user -owned End Point Data Storage Devices (EPSD) due to security risks. In the event that an EPSD is required, the IUSA Corporate Security Office shall distribute an approved device upon receipt of an approved ITSM request (Rlder A – Acceptable Use End Point Storage Device)
  - a. It is expected that Third Party Workers engaged in professional services or consulting services shall utilize contractually agreed methods for file storage and sharing as their primary/preferred means for file storage.
  - b. EPSD applies to the storage of data on devices that can be connected either by a USB drive, data cable or by wireless connection direct to any computing equipment within IUSA, e.g. USB sticks, drives, thumb nails, pen drives, flash drives.

### **6.0 Clear Desk & Screen**

- 6.1 Third Party Workers shall take steps to ensure a clear desk, screen and workplace by:
  - a. Locking away business critical and/or sensitive information, e.g. on paper or on electronic storage media, when not required (or not in use), and when the office (or work space) is unoccupied.
  - b. Shredding business critical and/or sensitive documentation when no longer needed, consistent with the Company's record retention policies.
  - c. Logging off or protecting computing resources (desktops, laptops, terminals, etc.) with a screen and/or keyboard locking mechanism, controlled by a password, token or similar user authentication mechanism when unattended and when not in use.
  - d. Using photocopiers and other reproduction technology (e.g. scanners, digital cameras) only as necessary and authorized to do so.

<sup>1</sup> PODs are information and communications technology devices (e.g. smart phones, lap tops) owned by employees or by third parties (such as suppliers, consultants and maintenance contractors).

- e. Removing materials containing business critical, sensitive or classified Information from printers, fax machines, copier rooms, and conference/meeting rooms immediately.

## **7.0 Monitoring**

- 7.1 IUSA reserves the right to use monitoring controls, including software, to ensure compliance with this Acceptable Use Requirements document. IUSA may record and/or monitor one or more Third Party Workers' IUSA's owned computer and/or internet activity for any reason and without prior notice.
- 7.2 Under no circumstances is personal or third party computing equipment allowed to directly connect to the Internal IUMC-IT managed corporate network, either by wired connection or via approved wireless protocol. IUMC IT reserves the right to monitor and remove unauthorized connections without prior notice.

## **8.0 Return of Electronic Resources**

- 8.1 Voluntary Termination
  - a. Third Party Workers shall return all IUSA electronic resources assigned to them or in their possession, to a designated individual, within twenty-four (24) hours of notice of termination or before their documented last day of work. IUSA business management shall make that determination. This includes return of facility access badges.
- 8.2 Involuntary Termination
  - a. b. Third Party Workers shall return all electronic resources assigned to them or in their possession immediately upon notice of termination. This includes return of facility access badges.

## **9.0 Compliance & Reporting**

- 9.1 A violation of the IUSA Acceptable Use Requirements by a temporary Third Party Worker, contractor or consultant may result in termination of their contract or assignment with IUSA.
- 9.3 Suspected requirements violations, system intrusions, virus outbreaks and other conditions which might jeopardize IUSA's information or computing resources shall be immediately reported to the IT Service Desk.

**Acknowledgement Statement - Third Party Worker On-Boarding**

By signing and dating this document I agree that I have had the opportunity to review these requirements and ask any questions regarding its content. I understand the contents of these requirements. I hereby acknowledge that I am responsible for complying with these requirements in addition to all other rules, policies, and procedures established by IUSA.

Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Or: Online Acknowledgement:



## **Acceptable Use Requirements – Procedural Guidance**

The Intent of this procedural guidance is to document requirements as it pertains to the Acceptable Use of IUSA's Electronic Resources, Electronic Messaging, and the Internet/Intranet by Third Party Workers.

All Third Party Workers shall be required to read and acknowledge their understanding of the IUSA Acceptable Use Requirements.

### **Definitions**

**Acceptable Use:** For purposes of these requirements document, acceptable use is the corporate organizational rules governing the use of electronic resources, electronic messaging, and Internet/Intranet usage.

**Electronic Resources:** computing and telecommunications devices that can execute programs or store data; examples of which may include, but are not limited to: computers, mobile computing devices, smartphones, portable wireless network access devices and storage devices (USB or otherwise connected).

**Electronic Messaging:** includes email, IM, audio-video conferencing and any other one-to-one, one-to-many, or many-to-many personal communications. (IUSA e-mail system, network, or Internet/Intranet access).

**Third Party Worker:** means contract employees, employees of suppliers or contractors, employees of consultants, or any other third party worker.

Questions pertaining to the contents of the IUSA Acceptable Use Requirements shall be directed, in writing, to the CSO at: [Corporate.SecurityUSA@lberdrolausa.com](mailto:Corporate.SecurityUSA@lberdrolausa.com). Responses shall be made in writing.

**Attachment 2 – IBERDROLA CODE OF ETHICS AND ETHICS ANNEX**

PAGE LEFT INTENTIONAL BLANK

### **Attachment 3 – Contractor Safety Requirements**



Please review the attached Master Services Procurement Agreement. These terms and conditions will apply when a purchase order is awarded pursuant to this request. The terms and conditions included in the attached exhibit are not necessarily exhaustive. We reserve the right to modify, add to or delete from the attached terms and conditions. Include any comments, exceptions, additions, deletions, etc.

You will be asked to sign this agreement. If you take any exceptions to the terms and conditions of this agreement, you **MUST** return a redlined copy in word format with your RFP response. If you do not take any exceptions to any of the terms and conditions, you **MUST** fill out the form below and submit it with your RFP proposal.

In addition to the criteria outlined in the RFP, responses will be evaluated based on the nature and number of exceptions taken to the provisions.

**Master Services Procurement Agreement Exceptions**

- On behalf of

[Redacted Signature]

(Please insert Company Name)

I read the Master Services Procurement Agreement which includes the general terms and conditions associated with the services to be provided to the IUMC Affiliates and...

- ☐ No exceptions are being taken to the Master Services Procurement Agreement provided in this RFP. We accept the agreement without any changes.
- ☐ Have included a redline copy of the agreement with our comments, exceptions and/or changes in Microsoft Word with Track Changes utilized.

