

PUBLIC VERSION

AGREEMENT

For

Design, Supply and Installation of GIS Equipment at RGE Station 23

Rochester Gas and Electric Corporation

TABLE OF CONTENTS

ARTICLE 1- ORDER OF PRECEDENCE AND DEFINITIONS

ARTICLE 2 - OWNER

ARTICLE 3 - CONTRACTOR

ARTICLE 4 – SPECIFICATIONS AND QUALITY

ARTICLE 5 - INSURANCE

ARTICLE 6 - LEGAL RESPONSIBILITY AND SAFETY

ARTICLE 7 - TIME

ARTICLE 8 - PAYMENTS

ARTICLE 9 - CHANGES IN THE WORK

ARTICLE 10 - MISCELLANEOUS PROVISIONS

ARTICLE 11 - ACCEPTANCE

APPENDICES

APPENDIX A - Specifications and Schedule

APPENDIX B - Agreement Sum and Payment Schedule

APPENDIX C - Contract Datasheet

APPENDIX D - Contractor Key Personnel and Subcontractors

APPENDIX E - Form of Invoice

APPENDIX F - Change Order Pricing

APPENDIX G - Change Order Request Form

APPENDIX H - Permits

APPENDIX I - Insurance Requirements

APPENDIX J - Lien and Waiver Release

APPENDIX K - Certificate of Substantial Completion

APPENDIX L - Certificate of Final Completion

APPENDIX M - Contractors Safety Requirements

APPENDIX N - Form of Parent Guarantee

APPENDIX O - Clause by Clause

This DESIGN, SUPPLY AND INSTALLATION AGREEMENT (this “Agreement”) is made this [REDACTED] by and between Rochester Gas and Electric Corporation (RG&E) (“Owner” or “Company”) with offices located at 89 East Avenue and [REDACTED] (“Contractor” or “Supplier”) with offices located at [REDACTED] and covers the Contractor’s performance of Work for the Owner, as provided hereunder, including all supplemental addenda hereto and all general and special provisions pertaining to the Work or materials therefor.

Iberdrola USA Management Corporation, an Affiliate of Owner, has full power to act as an agent for Owner, and for the purposes of this Agreement will act as Owner’s representative. For good and valuable consideration, the Parties agree as follows:

ARTICLE 1 – ORDER OF PRECEDENCE AND DEFINITIONS

1.1 This Agreement, its appendices and related purchase order(s) are complementary documents, and what is required by any one document shall be as binding as if required by all such documents. In the event of any inconsistency between the provisions of two or more documents, the order of supremacy (in descending order) shall be as follows:

- The purchase order;
- Appendix A (Specifications and Schedule);
- Appendix O (Clause by Clause); and
- This Agreement and the remaining appendices in the order listed.

In the event of a conflict between a Drawing and another type of Specification, the Specification shall prevail.

1.2 “Affiliate” means with respect to a person or entity, any individual, corporation, partnership, firm, joint venture, association, joint stock company, trust or other unincorporated organization, directly or indirectly controlling, controlled by, or under common control with, such person or entity. The term “control” shall mean the possession, directly or indirectly, of the power to direct the management or policies of a person or an entity. A voting interest of ten percent (10%) or more shall create a rebuttal presumption of control.

1.3 “Agreement Sum” means the total amount payable by the Owner to the Contractor for the performance of the Work under this Agreement.

1.4 “Agreement Time” means the period of time allotted in this Agreement to achieve Final Completion. The Agreement Time shall end at the Final Completion Date mentioned in Appendix C (Contract Datasheet).

“Drawings” means the drawings specified in Appendix A (Specifications and Schedule), including, but not limited to, final drawings prepared by Contractor which are approved by Owner for use during construction and show the design, location and dimensions of the Work and include, if applicable, plans, elevations, sections, diagrams and other details as may be necessary or desirable to facilitate the effective, efficient and timely construction and commissioning of the Work.

- 1.5 “Energized” means operational, on-line and connected to the transmission system.
- 1.6 “Final Completion” means Substantial Completion has occurred, the Contractor has satisfactorily completed all of the items on the “punch-list”, the In-Service Date has been achieved, Owner has signed Appendix L (Certificate of Final Completion) and final payment is now due and owing.
- 1.7 “In-Service Date” means the date that Substantial Completion is achieved and the GIS equipment is Energized. Provided however, if the In-Service Date has not been achieved within sixty (60) days of Contractor’s Notice of Substantial Completion for reasons not attributable to Contractor, the In-Service Date shall be deemed to have been achieved upon expiration of that period.
- 1.8 “Project” means Owner’s modernization project at Owner’s Station 23.
- 1.9 “Schedule” means the schedule included in Appendix A (Specifications and Schedule).
- 1.10 “Site” means the lands and improvements where the Project is located and the Work is to be installed, which lands and improvements are described in the Specifications.
- 1.11 “Site Access Date” means the site access date specified in Appendix C (Contract Datasheet) or in any notice to Contractor of a revision of the Site Access Date.
- 1.12 “Specifications” means scope of work document(s), technical specifications, Drawings and performance requirements, as listed in Appendix A (Specifications and Schedule) or as incorporated (by reference or otherwise) into this Agreement.
- 1.13 “Subcontractor” means the Contractor’s subcontractors, and such subcontractors’ subcontractors to include subcontractors of all tiers.
- 1.14 “Substantial Completion” means delivery by the Contractor of factory test results and completion of site inspection, testing and commissioning and certification that the Work is functionally complete and that the Work is ready to be Energized in accordance with Appendix K (Certificate of Substantial Completion) (i.e., that the GIS equipment can be operated for the purposes for which it is specified even though there may be some minor elements of the Work, i.e., “the punch-list”, that have yet to be completed).

- 1.15 “Substantial Completion Date” means the date set forth in Appendix C (Contract Datasheet), which is the date by which Substantial Completion must be achieved.
- 1.16 “Warranty Period” has the meaning set forth in Appendix C (Contract Datasheet).
- 1.17 “Work” or “Services” or “Scope of Work” means all design and installation services, labor, tools, equipment and material:
- a) to be provided by Contractor; and
 - b) under the financial and legal responsibility of Contractor.
- Without limiting the foregoing, it is understood between the parties that the Work includes, without limitation, the design, supply and installation of the GIS equipment in accordance with this Agreement.

ARTICLE 2 - OWNER

The Owner is the person or organization identified as such in this Agreement. The term Owner means the Owner or an authorized representative of the Owner.

- 2.1 Services Required of the Owner. Unless otherwise specified, the Owner will establish base lines necessary for the location of the principal component parts of the Work together with a suitable number of benchmarks relating to the Work.

The Owner shall secure and pay for easements for permanent structures or permanent changes in existing facilities.

- 2.2 Owner's Right to Correct Deficiencies. Subject to the Contractor's warranty obligations set forth in Section 4.10, upon failure to perform the Work in accordance with this Agreement and after seven days' written notice to the Contractor during which period Contractor has failed to correct the failure, provided that if such failure is not capable of correction within such seven day period, Contractor has failed to submit a plan of correction reasonably acceptable to Owner within such period and diligently thereafter performed such plan to correction, the Owner may, without prejudice to any other remedy it may have, correct such deficiencies in Work intended to become a permanent part of the Project. In such case, an appropriate change order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

If, within the Warranty Period any of the Work is found to be defective or not in accordance with this Agreement, the Contractor shall correct it promptly according to its obligations under Section 4.10 after receipt of a written notice from the Owner to do so. The Owner shall give such notice promptly after discovery of the condition.

All such defective or non-conforming Work shall be removed from the Site if necessary and the Work shall be corrected to comply with this Agreement without cost to the Owner. The Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.

If the Contractor does not remove such defective or nonconforming Work within a reasonable time fixed by written notice from the Owner, the Owner may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, the Owner may upon ten additional days written notice sell such materials or equipment at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor including compensation for additional architectural and/or engineering services. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate change order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner..

2.3 Owner's Termination Rights. The Owner shall have the right to terminate this Agreement immediately upon written notice to the Contractor, if the Contractor:

- a) is adjudged as bankrupt, becomes insolvent, admits it cannot pay its debts or assigns its assets for the benefit of its creditors;
- b) commits a material breach of a provision of this Agreement or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or
- c) fails to provide a qualified superintendent, enough properly skilled workmen or subcontractors, or proper materials, or fails to make prompt payment therefor.

In the event of termination of this Agreement by the Owner because of Contractor's default or breach wherein Contractor has failed to correct or submit a plan to correct such default or breach within the period specified in Section 2.2 (Owner's Right to Correct Deficiencies), the Owner may take possession of the Site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method and means Owner may select subject to Owner's obligation to reasonably mitigate. In such case, the Contractor shall not be entitled to receive any further payment that may be due as provided by this Agreement, until the Work is finished.

If the unpaid balance of this Agreement Sum shall exceed the expense of finishing the Work, including compensation for additional managerial and administrative services,

such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner.

For Owner's convenience, Owner may terminate this Agreement in whole or in part by giving the Contractor [REDACTED] written notice. In such event, Owner shall make payment to the Contractor for all costs incurred prior to such termination reasonably allocable to the Work performed, under recognized accounting practices. This provision shall not be deemed to limit or otherwise affect the Owner's right to terminate this Agreement for breach or default by the Contractor.

- 2.4 Owner's Right to Suspend Work. The Owner may at any time suspend the Work or any part thereof, immediately and verbally for reasons of safety, or by giving reasonable notice to the Contractor in writing. The Work shall be resumed by the Contractor within [REDACTED] days after the date fixed in the written notice from the Owner to the Contractor or, such time as is reasonably necessary for Contractor to remobilize, but, in no event later than [REDACTED] days from notice by the Owner. The Owner shall reimburse the Contractor for reasonable expenses directly incurred by the Contractor in connection with the Work under this Agreement as a result of such suspension.

When the whole or any portion of the Work is suspended for any reason, the Contractor shall properly cover, secure, and protect or cause to be so protected, such Work as may be liable to sustain injury from any cause, and Owner, to the extent Owner ordered such suspension, shall reimburse Contractor for all reasonable costs incurred by Contractor in so doing.

- 2.5 Owner's Right To Inspect Work. Except as may be otherwise provided herein, all Work furnished by the Contractor and all places where construction is carried on will be subject to inspection, examination and testing by the Owner at all times during the construction. The Owner has the right to reject defective Work including defective material and workmanship furnished by the Contractor, and require its correction subject to Contractor's warranty obligations set forth in Section 4.10. Rejected Work shall be corrected to conform to this Agreement without charge therefor. The Contractor shall promptly segregate and remove all rejected material from the Site.

The Contractor shall furnish promptly without additional charge, all reasonable facilities, labor and materials necessary for the safe and convenient inspection that may be required by the Owner. All inspection by the Owner will be performed in such manner as will not unnecessarily delay the Work.

Should it be considered necessary or advisable by the Owner at any time before Substantial Completion of the entire Work to make an examination of the Work already completed, by removing or tearing out same, the Contractor shall on request furnish all necessary facilities, labor, and materials to perform such examination. If the Work

subject to such examination is found to be defective or non-conforming in any material respect, due to the fault of the Contractor or its Subcontractors, such uncovering or destruction and reconstruction shall be at the expense of the Contractor. If, however, such Work exposed and examined is found to be satisfactory, the Owner will pay the Contractor the cost of such uncovering or destruction and reconstruction.

- 2.6 Owner's Audit Rights. Owner reserves the right and Contractor shall allow Owner to audit, or cause to have audited, any and all items related to aspects of this Agreement to assure Contractor's compliance therewith. These items shall include, but not be limited to, property, books, records, and computerized data files. This provision shall remain in effect for [REDACTED] years following final payment for the Work described in this Agreement. This provision does not apply to the calculations used to determine firm lump sum prices for Work performed under this Agreement except to the extent that knowledge of the amount of taxable portions of Contractor's invoicing is necessary.

ARTICLE 3 - CONTRACTOR

The Contractor is the person or organization identified as such in this Agreement. The term "Contractor" means the Contractor or an authorized representative of Contractor.

- 3.1 Review of Agreement. The Contractor shall carefully study and compare the provisions of this Agreement and shall at once report to the Owner any error, inconsistency or omission Contractor may discover. The Contractor shall not be liable to the Owner for any damage resulting from any such errors, inconsistencies or omissions which are first reported to Owner. The Contractor shall do no work that is not in accordance with the Drawings or Specifications, as such may be modified or amended in accordance with the terms of this Agreement.
- 3.2 Supervision. All Work shall be done under the direct supervision of the Contractor. The Contractor shall be responsible for construction means, methods, techniques, procedures, and safety, and for coordinating all portions of the Work under this Agreement.
- 3.3 Superintendent. When required by Owner, the Contractor shall employ a qualified superintendent and any necessary assistants, who are acceptable to the Owner, to be in attendance at the Site during the progress of the Work. The superintendent shall have full authority to act on behalf of the Contractor and all communications given to the superintendent shall be considered as given to the Contractor.

Important communications shall be confirmed in writing. Other communications will be so confirmed upon written request, on a case-by-case basis, by the Owner. It shall be the responsibility of the superintendent to coordinate the Work of all the contractors.

The superintendent shall be present on the Site at all times required to perform adequate supervision and coordination.

- 3.4 Subcontracts. The Contractor shall submit a list of those Work items which it plans to subcontract and the names of Subcontractors proposed for the Work. Subcontractors may not be changed except at the request or with the approval of the Owner. The Owner shall promptly notify the Contractor in writing if, after due investigation, Owner has reasonable objection to any Contractor on such list and does not accept him. Failure of the Owner to make objection promptly shall constitute acceptance of such Subcontractor.

If the Owner refuses to accept any Contractor on the list submitted by the Contractor, the Contractor shall submit an acceptable substitute and the Agreement Sum shall be increased or decreased by the difference in cost occasioned by such substitute and an appropriate change order shall be issued; however, no increase in the Agreement Sum shall be allowed for any substitution unless the Contractor has acted promptly and responsively in submitting for acceptance any list or list of names as required.

~~.....~~ The Contractor is responsible to the Owner for the acts and deficiencies of its Subcontractors, and any of their employees, to the same extent Contractor is responsible for the acts and deficiencies of Contractor's own employees. The Contractor shall obtain agreement from the Subcontractors that they will comply with the requirements of this Agreement.

Nothing contained in this Agreement shall create any contractual relationship between any Subcontractor and the Owner.

- 3.5 Contractor's Right To Terminate the Agreement. The Contractor may terminate this Agreement upon [REDACTED] days' written notice to the Owner for any of the following reasons:

- a) if an order of any court or other public authority having jurisdiction, or any act of government caused the work to be stopped or suspended for an aggregate period of three months through no act or fault of the Contractor or Contractor's employees; or
- b) if the Owner should fail to pay the Contractor any undisputed sum within thirty days from the due date.

- 3.6 Emergencies. The Contractor 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, Contractor shall notify the Owner 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 Contractor on account of emergency work shall be determined as provided in Article 9 for changes in the Work.

- 3.7 Removal of Equipment. In case of termination of this Agreement for any cause whatsoever, the Contractor, if notified to do so by the Owner, shall promptly remove any part or all of Contractor's equipment and supplies from the property of the Owner, failing which the Owner shall have the right to remove such equipment and supplies at the expense of the Contractor.
- 3.8 Cooperation. The Contractor shall cooperate with the Owner and any other contractors as directed by the Owner, who will establish the rights of the various interests involved. The Contractor shall properly connect and coordinate its Work with work done by others.
- 3.9 Use of Premises. The Contractor shall confine its apparatus, the storage of materials and the operations of its workmen to limits indicated by law, ordinances, permits and directions of the Owner and shall not unreasonably encumber the premises with its materials.
- 3.10 Layout of Work. It shall be the responsibility of the Contractor to lay out all structures and facilities and establish all grades for the same.
- 3.11 Information Required of Contractor. The Contractor shall promptly furnish weights, bills of material and such other data as are reasonably required by Owner. When required by Owner, the Contractor shall furnish instructions for the installation, operation, care and maintenance of, and lists of recommended spare parts, for the material or equipment. Unless otherwise specified, four copies of such data shall be furnished.
- 3.12 Independent Contractor. Contractor shall at all times be an independent contractor and be responsible for all acts or omissions of its own employees and Subcontractors. No act or instruction of Owner shall be deemed to be the exercise of supervision or control of performance hereunder.

ARTICLE 4 – SPECIFICATIONS AND QUALITY

- 4.1 Adequacy. Owner shall be responsible for the adequacy of the design and for the sufficiency of the Drawings and Specifications.
- 4.2 Discrepancies. Any discrepancies, inconsistencies, or ambiguities found between the Drawings and Specifications and the site conditions shall be immediately reported to the Owner's field engineering supervisor, who shall promptly correct such inconsistencies or ambiguities in the Drawings or Specifications in writing. Any Work done after such

discovery or after the Contractor should have reasonably made such discovery, unless authorized in writing by Owner, will be done at the Contractor's risk.

- 4.2 Additional Instructions. Owner may issue additional instructions during the progress of the Work by means of Drawings or other media necessary to illustrate changes in the Work.
- 4.3 Copies Furnished to Contractor and Ownership. Unless otherwise provided, the Contractor will be furnished, free of charge, all required copies of Drawings and Specifications necessary for the execution of the Work. All Drawings, Specifications and copies thereof furnished by the Owner are and shall remain the Owner's property. They are not to be used on any other project and sets are to be returned to Owner on request at the completion of the Work. The Contractor shall keep one copy of all Drawings and Specifications regarding the Work in good order, available to the engineer and to engineer's representative.
- 4.4 By executing this Agreement, the Contractor represents that it has visited the Site, familiarized itself with the local conditions under which the Work is to be performed, and correlated its observations with all the requirements of this Agreement. The Owner assumes no responsibility whatsoever for ascertaining for the Contractor any facts which the Contractor could have ascertained for itself through such investigation; provided however, the Contractor shall be entitled to rely on the accuracy of all Owner-provided data and information.
- 4.5 Materials and Labor. Unless otherwise specifically noted, the Contractor shall provide and pay for all materials, labor, equipment, tools, water, heat, utilities, transportation and other facilities necessary for the proper execution and completion of the Work. The Contractor is responsible for providing workers, who must have sufficient knowledge, skill, and experience to perform properly the work assigned to them. The Contractor shall at all times be responsible for the conduct and discipline of its employees and/or any Contractor or persons employed by Subcontractors.
- Owner reserves the right to require the removal of any personnel of the Contractor who in Owner's opinion may be incompetent, careless, not qualified to perform the Work assigned, or who may have engaged in improper conduct.
- 4.6 Substitution. Certain products have been referred to by name and catalog number in this Agreement. No substitutes shall be made without prior written approval of the Owner.
- 4.7 Samples. All samples called for in this Agreement shall be furnished by the Contractor to illustrate materials, equipment or workmanship, and to establish standards by which the Work will be judged.

- 4.8 Shop Drawings. The Contractor shall provide shop drawings, setting schedules and other such drawings as may be necessary for the prosecution of the Work in the shop and in the field as required by the Specifications. Deviations from the Specifications shall be called to the attention of the Owner at the time of first submission of the Drawings. The Owner's approval of any Drawings shall not release the Contractor from responsibility for such deviations.

By approving and submitting shop Drawings, the Contractor thereby represents that Contractor has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, or will do so, and that it has checked and coordinated each shop Drawing with the requirements of the Work.

- 4.9 Cutting and Patching. The Contractor shall do all cutting, fitting or patching of its Work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors shown upon the Drawings and Specifications for the completed structure or any other provisions of this Agreement.

Any cost caused by defective or ill-timed work shall be borne by the party responsible therefor. The Contractor shall not endanger any work by cutting, excavating or otherwise altering the Work and shall not cut or alter the work of any other contractor save with the consent of the Owner.

- 4.10 Warranty & Quality. Contractor warrants that the Work shall conform to the Specifications and be free from defect in design, material and workmanship and shall be fit for the purpose for which such Work is specified in this Agreement. Furthermore, Contractor warrants that all material and equipment supplied under this Agreement shall be new, free from defects and of the kind and quality required by the Specifications.

- 4.11 Contractor's warranty in Section 4.10. shall start:

a) At the [REDACTED] or

b) [REDACTED] following Substantial Completion,

which ever occurs first, and end after the period indicated in Appendix C (Contract Datasheet).

- 4.11 A. Warranty/Guarantee: All Work furnished under this Agreement shall be new and free from defects in design and workmanship, and shall be fit for the purpose specified in the purchase order. If requested by Owner, the Contractor shall furnish evidence as to the kind and quality of materials and equipment supplied. Work not conforming with the provisions of the Agreement, which are not equal to samples reviewed by the Owner, or which are in any way nonconforming to the specifications, or (only with respect to material or equipment designed, engineered, specified or provided by Contractor) which are unsuited to the purpose for which they are specified, shall not be furnished or installed and will be considered defective.

In the event of a breach of Contractor's obligation hereunder, Contractor shall remedy the non-conformity as specified below.

Contractor warrants that craft, technical, supervisory and professional personnel that are provided are qualified to perform the Work assigned and that all Work performed hereunder shall be of high quality, free from defects, errors or omissions, and in conformance with this Agreement.

Upon written notice from Owner, Contractor shall make promptly and without charge, all necessary changes, corrections, and replacements (including installation of replacement parts) required to make good all defects in the material or equipment or in workmanship during the Warranty Period. Owner shall notify Contractor of all such defects promptly and within the Warranty Period.

Contractor shall make good all defects of which it has received notice within the Warranty Period. The Warranty Period for any corrected non-conforming Work shall be extended for a period not to exceed [REDACTED] beyond the original Warranty Period. In no event however, shall the Warranty Period be extended beyond a period of eighteen months from the In-Service Date. Supplier shall have no obligation hereunder with respect to any Work which (i) has been improperly repaired or altered by someone other than Contractor, its Subcontractors or agents; (ii) has been subjected to misuse, negligence or accident by someone other than Contractor, its Subcontractors or agents; or (iii) has been used in a manner contrary to Contractor's instructions by someone other than Contractor, its Subcontractors or agents.

THE WARRANTIES AND REMEDIES HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY AND PERFORMANCE, WHETHER WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USAGE OF TRADE ARE HEREBY DISCLAIMED. THE REMEDIES STATED HEREIN CONSTITUTE OWNER'S EXCLUSIVE REMEDIES AND CONTRACTOR'S ENTIRE LIABILITY FOR ANY BREACH OF WARRANTY.

- 4.12 If requested by Owner, Contractor shall furnish evidence as to the type and quality of Work supplied.
- 4.13 Contractor warrants that craft, technical, supervisory and professional personnel that are provided are highly qualified to perform the Work assigned and that the Work will be performed in accordance with this Agreement and any applicable law.

4.14 Following a written notice by Owner sent before the expiry of any warranties and guarantees under this Agreement, the Contractor shall be responsible for:

- a) the removal and replacement or modification of all Work which, in the opinion of Owner, is defective;
- b) the restoration of all Work, and the work of others, which is disturbed or damaged in the course of removal and replacement or modification of the defective Work, due to Contractor's or a Subcontractor's negligence or willful misconduct; and
- c) all risks associated with:
 - i) the removal, including disposal and storage, of the defective Work; and
 - ii) the replacement or modification of the unsatisfactory Work, whether performed by the Contractor or by or on behalf of Owner.

The warranty period for any corrected Work shall be extended for a period not to exceed [REDACTED] beyond the original warranty period.

4.15 Contractor shall have no obligation hereunder with respect to any Work which (i) has been improperly repaired or altered without Contractor's approval; (ii) has been subjected to misuse, negligence or accident by someone other than Contractor or its Subcontractors; or (iii) has been used in a manner contrary to Contractor's instructions without Contractor's approval.

4.16 Tests. The Contractor shall ascertain by tests or otherwise as agreed to by Owner and Contractor that the Work is in full accordance with this Agreement. Where practicable, all tests shall be made at the place of manufacture. The Contractor shall provide all facilities, apparatus and labor reasonably required for tests and shall bear all of its own expense thereof, except salaries and expenses of representatives of the Owner. The Contractor shall give the Owner at least [REDACTED] days' advance written notice before shipment. Up to [REDACTED] after receipt of such notice the Owner may require performance of tests to be witnessed by its representatives and/or require the Contractor to furnish [REDACTED] certified copies of all tests for approval, prior to shipment. There shall be no additional charges for such witness tests or certified copies except as set forth in the Contractor's proposal. However, the Owner will bear the expense of tests conducted on its own premises, except salaries and expenses of representatives of the Contractor.

4.17 Packing and Marking. All material and equipment to be furnished by the Contractor shall be packed, crated or otherwise suitably protected to withstand shipment undamaged to the destination. Each package, crate or part shall be marked plainly with the name of the consignee, shipping destination, the Owner's order number, and such other markings as are required. Complete packing lists, one copy with each package and two (2) copies by mail to the Owner at time of shipment, shall be supplied showing contents and identity of each package.

- 4.19 Work Stoppage. Contractor'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, Contractor shall retain the right to remove its employees from any situation it reasonably determines may pose an unreasonable health or safety risk. Except as set forth above, it shall be the obligation of the Contractor to supply a qualified work force. Owner may terminate this Agreement if Contractor fails to provide a qualified work force within [REDACTED] of Owner's notification to Contractor that a qualified work force has not been supplied.

ARTICLE 5 - INSURANCE

- 5.1 See Appendix I for 's insurance requirements.

ARTICLE 6 - LEGAL RESPONSIBILITY AND SAFETY

- 6.1 Indemnification. Contractor will indemnify, defend at its expense and hold harmless the Owner and its Affiliates, directors, officers, employees, and their agents on Owner's property where Work is being performed (the "Indemnatee") from and against any and all claims, demands, suits, losses, costs, fees, damages or expenses it may suffer, or for which it may be held liable, whether including, without limitation, reasonable expenses and attorneys fees incurred in 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 Contractor or its agents or subcontractors under this Agreement; (B) any work-related accident or injury affecting an employee, agent or subcontractor of the Contractor, arising in connection with Contractor's negligent 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 Contractor alleging that (i) the Indemnatee is required to maintain worker's compensation or unemployment or any other type of insurance upon any employee, agent or subcontractor of the Contractor; (ii) the Indemnatee is liable for tax payments or withholding with respect to any employee, agent or subcontractor of the Contractor; (iii) any employee, agent or subcontractor of the Contractor is entitled to receive employee benefits from the Indemnatee, including, without limitation, vacation, deferred compensation, medical, pension, 401(k) or any other benefit available to the Indemnatee's employees; and (iv) the Indemnatee 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 Contractor; (D) bodily injury, including death, to any person or persons due to the negligent, reckless or willful actions or omissions of the Contractor or its agents or subcontractors; (E) damage to or destruction of any property, including loss of use thereof, due to the negligent, reckless or willful actions or omissions of the Contractor or its agents or Subcontractors. Individual employees, agents and subcontractors of the Contractor who

are performing services for the Indemnitee under this Agreement shall be considered to be employees, agents or subcontractors of the Contractor 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 Contractor under this Agreement shall be deemed to be actions of the Contractor under these indemnities and this Agreement. In furtherance of the foregoing indemnification and not by way of limitation thereof, the Contractor 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 Contractor consents to a cause of action for indemnity.

- 6.2 Patents and Royalties. If any design, device, material or process covered by letters patent or copyright is used by the Contractor in Contractor's Work, Contractor shall provide for such use by legal agreement with the owner of the patent or a duly authorized licensee of such owner. The Contractor shall pay all royalties and license fees. The Contractor shall defend, indemnify and hold harmless the Owner from and against all liability, claims, and losses for infringement of any patent rights, except that the Owner shall be responsible for all such loss when a particular design, process or product of a particular manufacturer or manufacturers is specified by the Owner in the Specification, but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, Contractor shall be responsible for such loss unless it promptly gives such information to the Owner. Contractor shall have no obligation hereunder and this provision shall not apply when any action is settled or otherwise terminated without the prior written consent of Contractor.
- 6.3 Permits. With the exception of Owner permits identified in Appendix C (Contract Datasheet), all permits, governmental fees and licenses necessary for the proper execution and completion of the Work shall be secured and paid for by the Contractor, unless otherwise specified in the agreement. In the event of a delay in the issuance of any Owner permit identified in Appendix C (Contract Datasheet), for causes not attributable to either of the parties, then it is agreed that, if necessary, a day for day delay in the schedule of performance shall be allowed as caused by such delayed permit issuance, together with an adjustment in the Agreement Sum due to such delay.
- 6.4 Compliance with Laws. The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and orders bearing on the performance of the Work. If the Contractor discovers that the Agreement (together with its appendices and related purchase order(s)) are at variance therewith in any respect, the Contractor shall promptly notify the Owner in writing, and any necessary changes shall be made by appropriate modification. If any regulation, law, rule, regulation, ordinance, by-law etc., and any derivatives including but not limited to

permits, licenses or codes, coming into force after date of Contractor's bid should cause an increase of the Contractor's cost, then, with Owner's prior written consent (which consent shall not be unreasonably withheld) the Agreement Sum shall be adjusted by an amount equivalent to said increase.

- 6.5 Written Notice. Written notice shall be considered as duly served when delivered in person or sent by registered mail to the individual, member of the firm or officer of the corporation for whom it was intended, or to the last known business address.
- 6.6 Safety. See Appendix M (Contractors Safety Requirements) for Owner's Contractors Safety Requirements. Contractor is to follow these requirements at all times while performing work for Owner.

ARTICLE 7 - TIME

- 7.1 Notice To Proceed. Following execution of this Agreement by the Owner and the Contractor, written notice to proceed with the Work shall be given by the Owner to the Contractor. The date to commence Work is the date established in the notice to proceed. If there is no notice to proceed, it shall be the date of this Agreement or such other date as may be specified by the Owner.
- 7.2 Schedule of Completion. Contractor shall perform the Work so that all of the milestone events are completed on or before the dates specified in Appendix A (Specifications and Schedule) for each milestone event.
- 7.3 Site Access Date. Contractor shall not enter or commence any portion of the Work on the Site until Owner notifies Contractor that all necessary clearances for the Work on Site have been obtained, which clearances should be granted on or before the Site Access Date specified in Appendix C (Contract Datasheet). Owner shall promptly advise Contractor of any change in Site Access Date. Any material postponement of the Site Access Date will be deemed proper cause for equitable adjustment.
- 7.4 Substantial Completion. After Substantial Completion has been achieved, a Certificate of Substantial Completion shall be issued by the Owner. The Certificate does not relieve the Contractor of its obligation to complete all the Work including punch-list items as required to achieve Final Completion. It entitles the Owner to occupy the Work or designated portions thereof for the use for which it is specified. Title and risk of loss shall pass to Owner when Owner issues a Certificate of Substantial Completion or the Work is Energized, whichever comes first.

- 7.5 Progress and Completion. It is expressly understood by the Contractor and Owner that time is important in the performance of this Agreement.

The Contractor shall begin the Work on the date of commencement set forth in the written notice to proceed. The Contractor shall carry the Work forward expeditiously with adequate forces and shall complete it in accordance with the Schedule.

- 7.6 Delay Damages. If the Contractor neglects, fails, or refuses to complete the Work within the time specified for Substantial Completion in this Agreement, then the Contractor does hereby agree to pay to the Owner, as liquidated damages ("Delay Liquidated Damages") and not as a penalty, the sum of [REDACTED] of the Agreement Sum per day for each calendar day beyond the Substantial Completion Date in this Agreement until Substantial Completion is achieved.

The said amount is fixed and agreed on by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the true value of the damages which the Owner will sustain by failure of the Contractor to complete the Work on time, such as loss of revenue, service charges, interest charges, delays caused to other construction activities of Owner by failure to perform this Contract, and other damages, some of which are indefinite and not susceptible of easy proof. The Delay Liquidated Damages amount is agreed to be a reasonable estimate of the amount of damages which the Owner will sustain and said amount shall be deducted from any monies due or that may become due to the Contractor. If monies owed to Contractor under this Agreement are insufficient to cover said Delay Liquidated Damages, then the Contractor shall pay the amount of the difference.

Further provided that in no event shall Contractor's liability for and obligation to pay any or all liquidated damages exceed an amount equal [REDACTED] percent of the total value of the Work, and, that Contractor's payment of any or all of such liquidated damages shall constitute Contractor's sole obligation and, Owner's exclusive remedy for a Contractor caused delay in achieving the guaranteed Substantial Completion Date.

- 7.7 Unforeseen Conditions. In the event it is determined that any change from the description of Work contained in this Agreement is required, written approval must be secured from the Owner prior to the beginning of such work.

Reimbursement for increased work and/or substantial change in the description of Work shall be limited to costs covered by written modification, change order, or extra work order approved by the Owner and subject to Appendix F (Change Order Pricing) and Appendix G (Change Order Request Form).

ARTICLE 8 - PAYMENTS

- 8.1 Agreement Sum. The Agreement Sum is stated in Appendix B (Agreement Sum and Payment Schedule) and is the total amount payable by the Owner to the Contractor for the performance of the Work under this Agreement. The Agreement Sum is fixed. Any work additional to the Work shall be done on a fixed price basis or on a time and materials basis as agreed to by the Owner and Contractor prior to the commencement of such additional work.

With respect to Work to be performed on a "time and material" basis, such work shall be performed based on the Contractor's agreed to rate sheets and set forth in appendix F.

For lump-sum agreements the Contractor is to provide invoicing showing material costs and the total cost of the project or applicable portion thereof.

- 8.2 Payments. On or before the tenth day of each month, or as otherwise agreed by the parties in writing, the Contractor shall submit to the Owner an itemized invoice showing the percentage and value of the Work completed during the previous month, including materials received and stored on the job Site. Invoices shall be submitted utilizing American Institute of Architects (AIA) forms 702 and 703, as set forth in Appendix E (Form of Invoice) to this Agreement. Each invoice shall be accompanied by the Contractor's waiver and release in the form of Appendix J-1 or Appendix J-2 for final invoice.

██████ days after acceptance of the invoice, the Owner shall make payment to the Contractor of ninety percent ██████ of the undisputed amount. Payment may be withheld and may be paid directly to third parties in accordance with Section 8.3 if Contractor has failed to comply with its lien obligations under Section 8.5 herein.

Final payment shall be made ██████ days after final acceptance of the Work but in no event later than ██████ days from the In-Service Date unless Owner determines that Contractor has failed to achieve Final Completion during such time period.

The Contractor warrants that title to all Work covered by an invoice, whether incorporated in the Project or not, will pass to the Owner upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 8 as "liens"; and that subject to Owner's continued obligation to make payments owed, no Work covered by an invoice will have been acquired by the Contractor, or by any other person performing the Work at the Site or furnishing materials and equipment for the Work, subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Contractor, or its Subcontractors or suppliers.

8.3 Payments Withheld. The Owner may withhold, or, on account of subsequently discovered evidence, nullify the whole or part of any invoice to such extent as may be necessary to protect itself from loss on account of:

- a) defective Work not remedied;
- b) third party claims filed or reasonable evidence indicating probable filing of such claims which Contractor has failed to remove within a reasonable period of time after receiving notice of such;
- c) failure of the Contractor to make payments due to Subcontractors, its suppliers or employees;
- d) reasonable indication that the Work will not be completed within the Agreement Time;
- e) prosecution of Work that does not comply with this Agreement;
- f) failure of the Contractor to submit estimates of partial payments, or lack of accurate supporting data;
- g) invoicing which is incorrect; or
- h) breach of any material term or condition of this Agreement.

When the above grounds are removed, or the Contractor provides a bond satisfactory to the Owner which will protect the Owner in the amount withheld, payment shall be made for such amounts withheld.

8.4 Payment Disclaimer. In no event shall payment or partial payment by Owner for any material or service rendered by Contractor be construed as Owner's acceptance of that material or service. Such payment by Owner to Contractor in no way releases Contractor from any of its obligations under this Agreement.

8.5 Final Completion and Final Payment. When the Contractor determines that the Work is substantially complete in accordance with this Agreement, the Contractor shall, together with Owner, prepare a punch-list of items to be completed or corrected by Contractor. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with this Agreement. When Contractor achieves Final Completion, upon receipt of written notice that the Work is ready for, final inspection and acceptance, and upon receipt of final invoice, the Owner will promptly make such inspection and, when Owner finds the Work conforming to this Agreement and this Agreement fully performed, Owner will make final payment in accordance with time periods set forth in Section 8.2.

The final payment (including the [REDACTED] retainage) shall not become due until the Contractor submits to the Owner (i) an Affidavit that all Contractor's payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or its property might in any way be responsible, have been paid or otherwise satisfied, and (ii) consent of surety, if any, to final payment, and data establishing payment or satisfaction of all such obligations, such as receipts, releases

and waivers of liens arising out of this Agreement, to the extent and in such form as indicated in Section 8.2 and Appendix forms J-1 or J-2, as applicable. If any subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify him against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees provided that Contractor has failed to remove any such lien within a reasonable time after being notified of its filing.

If after Substantial Completion of the Work and occurrence of the In-Service Date, Final Completion thereof is materially delayed through no fault of the Contractor, the Owner shall, without terminating this Agreement, make payment of the balance due for that portion of the Work fully completed.

The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:

- 1) outstanding liens;
- 2) faulty, defective, or nonconforming Work;
- 3) failure of the Work to comply with the requirements of this Agreement, or
- 4) terms of any warranties or guarantees required by this Agreement.

The acceptance of final payment shall constitute a waiver of all payment claims by the Contractor except those previously made in writing and still unsettled.

Simultaneously with the execution of this Agreement, Contractor shall deliver to Owner a duly executed Parent Guarantee in the form attached hereto as Appendix N (the "Parent Guarantee"). If Contractor is unable to provide the Parent Guarantee contemporaneously with the execution and delivery of this Agreement, then Contractor shall have until [REDACTED] to provide Owner with such duly executed Parent Guarantee. If Contractor fails to deliver such duly executed Parent Guarantee by [REDACTED] then Owner shall have the right to terminate this Agreement and cancel any purchase order(s) issued under this Agreement, without having any liability whatsoever to Contractor for such termination and cancellation.

ARTICLE 9 - CHANGES IN THE WORK

- 9.1 Change Orders. The Owner reserves the right to order changes in the Work through additions, deletions or other revisions. All such changes in the Work shall be authorized by change order, and shall be executed under the applicable conditions of

this Agreement. The Agreement Sum and Agreement Time affected by the change shall be adjusted at the time the change order is executed.

A change order is a written order to the Contractor signed by the Owner, issued after the execution of this Agreement, authorizing a change in the Work and/or an adjustment in the Agreement Sum or Agreement Time. A change order may also be signed by the Contractor if the Contractor agrees to the adjustment in the Agreement Sum or the Agreement Time. The Agreement Sum and the Agreement Time may be changed only by a change order that is signed by both the Owner and the Contractor.

The cost or credit to the Owner resulting from a change in the Work shall be determined in one or more of the following ways:

- a) By mutual acceptance of a lump sum properly itemized;
- b) By unit prices stated in this Agreement or subsequently agreed upon; or
- c) By cost and a mutually acceptable fixed or percentage fee.

If unit prices are stated in Appendix F (Change Order Pricing) or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed change order that application of the agreed unit prices to the quantities of work proposed will create a hardship on the Owner or the Contractor, the applicable unit prices shall be equitably adjusted to prevent such hardship.

- 9.2 Differing Site Conditions. Should concealed conditions encountered in the performance of the Work below the surface of the ground be at variance with the conditions indicated by this Agreement or should unknown physical conditions below the surface of the ground of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement be encountered, the Agreement Sum shall be equitably adjusted by change order upon claim by either party made within [REDACTED] after the first observance of the conditions.

- 9.3 Claims for Additional Costs. If the Contractor claims that additional costs are involved because of (i) any written interpretation of this Agreement issued by the Owner or (ii) any order by the Owner to stop the Work where the Contractor was not at fault, or (iii) any other event, the Contractor shall submit such claim by giving the Owner written notice thereof within [REDACTED] after the occurrence of the event or of the time Contractor first becomes aware of the event giving rise to such claim. Such notice shall be in the format displayed in Appendix G (Change Order Request Form) and shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim for additional compensation

shall be valid unless so made. Any change in the Agreement Sum resulting from such claim must be authorized by Owner in a change order.

ARTICLE 10 - MISCELLANEOUS PROVISIONS

- 10.1 Governing Law. This Agreement shall be governed by and construed according to the laws of the State of New York.
- 10.2 Non-Assignment. The Contractor shall not assign this Agreement in whole or in part nor any right hereunder without the prior written consent of Owner. The assignment by the Contractor of this Agreement or any interest therein, or of any money due or to become due by reason of the terms hereof without the prior written consent of Owner shall be void.
- 10.3 Cleaning Up. The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by its operations. At the completion of the Work the Contractor shall remove from the Owner's property, and from all public and private property, all temporary structures, rubbish and waste materials, tools, construction equipment, machinery, and surplus materials, leaving the Site smooth, clean and true to line and grade.
- 10.4 Interest. Any moneys not paid when due to either party under this Agreement shall bear interest at the legal rate in force in the State of New York.
- 10.5 Arbitration. All claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof, except for claims which have been waived by the making or acceptance of final payment as provided herein, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in force unless the parties mutually agree otherwise. Any arbitration proceedings shall take place in the State of New York. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

The Contractor shall not cause a delay of the Work because of the pendency of arbitration proceedings, but Contractor shall only continue working until the arbitrators have had an opportunity to determine (and decide) that the Work shall not continue during the pendency of the arbitration proceedings.

The demand for arbitration shall be filed in writing with the adverse party, and with the American Arbitration Association and shall be served by registered mail to the last known address of each. The demand shall be made within a reasonable time after the

dispute has arisen. In no case, however, shall the demand be made later than the time of final payment, except as may be otherwise expressly stipulated in this Agreement.

In no case shall punitive damages be awarded to either party in any arbitration resulting from performance under this Agreement. Once the arbitral award is determined and, if applicable, apportioned, the prevailing party shall be entitled to receive reimbursement from the non-prevailing party of any amounts paid including attorney's fees and costs incurred hereunder in connection with the arbitration proceeding.

The award of the arbitrators shall be in writing and acknowledged like a deed to be recorded and a duplicate shall be delivered personally or by registered mail forthwith upon its rendition to each of the parties to the controversy and to the Owner. Judgment may be rendered upon the award by the federal court or the highest state court having jurisdiction to render same.

- 10.6 Separate Agreements. The Owner may award other agreements in connection with other portions of the Project. The Contractor shall cooperate with other contractors with regard to storage of materials and equipment and the execution of their work. It shall be the Contractor's responsibility to inspect all work by other contractors affecting its Work and to report to the Owner any irregularities which will not permit it to complete its Work in a satisfactory manner. The Contractor shall not be responsible for defects of which Contractor could not have known, which develop in the work of others after the Work is completed.

Should the Contractor cause damage to the work or property of any separate contractor on the Project, the Contractor shall, upon due notice, settle with such separate contractor by agreement or arbitration, if Contractor will so settle. If such separate contractor sues the Owner or initiates an arbitration proceeding on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall defend such proceedings according to Contractor's indemnification obligations.

10.7 Taxes and Duties.

1. The price does not include any federal, state or local property, license, privilege, sales, use, excise, gross receipts, or other like taxes which may now or hereafter be applicable. Owner agrees to pay or reimburse any such taxes which Contractor or its suppliers are required to pay or collect. If Owner is exempt from the payment of any tax or holds a direct payment permit, buyer shall, upon order placement, or, as soon as reasonably possible thereafter, provide Contractor a copy, acceptable to the relevant governmental authorities of any such certificate or permit.

Owner agrees to pay or reimburse any such taxes which Contractor or its suppliers are required to pay or collect. If Owner is exempt from the payment of any tax or holds a direct payment permit, Buyer shall, upon order placement, or, as soon as

reasonable possible thereafter, provide Contractor a copy, acceptable to the relevant governmental authorities of any such certificate or permit. The price includes customer, duties and other importation fees, if any.

2. The Contractor, with respect to its own employees agrees to assume full responsibility for the payment of any federal or state payroll taxes, or contributions, for unemployment insurance, old age pensions, annuities, and the like, in conformity with existing social security laws, and to indemnify the Owner against any liability therefor.

- 10.8 Delivery of Material and Equipment. When it is the responsibility of the Contractor under this Agreement to unload material and equipment at the Site, such unloading shall be done expeditiously. If, in the opinion of the Owner, failure to so unload will interfere with the progress of the Work, the Owner may unload such material and equipment upon approval of the Contractor, at the Contractor's expense and the Contractor shall reimburse the Owner for the actual cost thereof plus overhead.

All loss or damage to the material or equipment to be furnished by the Contractor, shall be remedied by the Contractor up to the point of passage of risk of loss to Owner.

- 10.9 Wages and Hours. Wage rates established at the beginning of the Work will not be changed without the approval of the Owner. The Work will be performed on a 40-hour week basis insofar as possible and no overtime will be worked without prior approval of the Owner. This Section shall not be applicable in the event that this Agreement provides for a lump-sum or unit price agreement for the Work.

- 10.10 Work Records. It is understood and agreed that job accounting, job costs keeping and the scheduling and purchasing of materials to be made a part of the Work or incidental thereto will be carried on in accordance with the Owner's instructions. The Owner may have a field auditor representing it in the work office on the work Site for the purpose of facilitating the foregoing and the Contractor will give him such assistance and cooperation as the Owner shall require. All payrolls entering directly into the cost of the Work shall be carried in the name of the Contractor. This Section shall not be applicable to lump-sum or unit price portions of the Work.

- 10.11 Limitation of Liability. The liability of the Owner and the Contractor with respect to any and all claims arising out of this Agreement, whether based on contract, warranty, tort (including negligence), strict liability or otherwise, shall in no event include consequential, indirect or incidental damages. Except as otherwise set forth below in this Section 10.11, Contractor's aggregate liability for any and all claims whether in contract, warranty, tort, negligence, strict liability, or otherwise for any loss or damage arising out of, connected with, or resulting from this Agreement shall in no case exceed

the Agreement Sum. Excluded from this limitation on Contractor's aggregate liability are any liabilities arising out of or in connection with (a) any and all indemnification obligations for third party claims, or (b) fraud, gross negligence, or willful misconduct.

- 10.12 Interference with Operations. Interference with normal operation of the Owner's plant or equipment, and that of all contractors or subcontractors on the work Site, shall be avoided wherever possible. The Contractor shall not operate any of the Owner's plant or equipment or control devices, or those of any other contractor or subcontractor on the work Site except at the direction of and under the direct supervision of the Owner.
- 10.13 Setoff. Owner may set off against amounts payable to Contractor under this Agreement any claim or charge it may have against Contractor.
- 10.14 Equal Opportunity. Contractor shall comply, to the extent applicable, with Executive Order 11246, the Vietnam Era Veterans Readjustment Assistance Act of 1974, the Rehabilitation Act of 1973, as amended, and any regulations, and reporting requirements implemented thereunder. The equal opportunity and affirmative action clauses contained in Title 41, Chapter 60, Sections 1.4, 250.4, and 741.3 of the Regulations of the U.S. Department of Labor, Office of Federal Contract Compliance, and any section or sections superseding or amending the same, are hereby incorporated by reference and made a part hereof as though fully set forth herein.
- 10.15 Entire Agreement. This Agreement constitutes the entire agreement between the parties for the Work to be performed hereunder, and supersedes any prior communications, whether written or oral, between the parties as to such services.
- This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.
- 10.16 Waiver. No waiver, alteration, consent, amendment or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the party to be bound.
- 10.17 Rights, Privileges, Remedies. Except as otherwise set forth herein, 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.
- 10.18 Failure to Complain. Unless otherwise provided in this Agreement, the failure of any party hereto to complain of any act or omission on the part of the other party hereto, no matter how long the same may continue, shall not be deemed a waiver by said party of

any of its rights hereunder. No waiver by any party hereto at any time, express or implied, of any default or of any breach or modification of any provision of this Agreement shall be deemed a waiver of default, breach or modification of any other provision of this Agreement or a consent to any subsequent default, breach or modification.

- 10.19 Severability. In the event any provision hereof shall be declared invalid, that provision shall be deemed severable from the remaining provisions of this Agreement, which shall remain in full force and effect.
- 10.20 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.
- 10.21 Force Majeure; Impracticability; Excuse. Contractor 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 Contractor, except that adverse weather shall not be deemed a cause beyond the control of Contractor for purposes of this Agreement unless the adverse weather is unusually severe; and provided that the Contractor shall have used its reasonable best efforts, and rendered to Owner prompt notice in writing when it appears that such cause will result in non-performance under this Agreement. If any such non-performance shall threaten to impair Owner's ability to operate, Owner shall have the right at its option and without being under any liability to Contractor to cancel by notice in writing to Contractor the portion or portions of the Work so affected and to take such compensatory action as may be necessary. Correspondingly, except for the obligation to make payments owed for Work performed, Owner shall be excused for failure of performance herein due to any cause beyond its control and without its fault or negligence.
- 10.22 Employee Solicitation. During the term of this Agreement and for a period of [REDACTED] thereafter, except with the prior written consent of Iberdrola USA Management Corporation and/or Company, Contractor shall not offer employment to, or employ, any employee of Iberdrola USA Management Corporation or Iberdrola USA Management Corporation's current or future affiliates, and Contractor shall not induce or attempt to induce, directly or through an agent or third party, any such employee to leave the employ of Iberdrola USA Management Corporation or Iberdrola USA Management Corporation's current or future affiliates. As used herein, the term "affiliate" shall mean any person or entity controlling, controlled by, or under common control with Iberdrola USA Management Corporation through majority stock or other ownership interest, direct or indirect.
- 10.23 Iberdrola USA Code of Conduct. Contractor is to comply with Iberdrola USA Code of Conduct in the performance of the Work under this Agreement. The Iberdrola USA

Code of Conduct can be found at the Iberdrola USA website (www.iberdrolausa.com) under Corporate Governance on the Financial Information header.

- 10.24 Performance Monitoring. Company will evaluate Contractors performance by utilizing Contractor corrective action reports and Contractor performance evaluation reports. The Contractor must provide upon request the OSHA incident rate and Experience modification rate for Company's review. The Company's project manager will evaluate the Contractor's performance upon the conclusion of the Work by completing the specified report. The Company will continuously monitor the Contractor's performance. Performance by a Contractor that is less than desirable may potentially eliminate this Contractor from bidding on future projects and/or lump sum projects.
- 10.25 Continuous Improvement. Continuous improvement is the foundation of this Agreement. Contractor warrants that it will pass on to Company in the form of price reductions in material costs and the like. Contractor likewise will use its best efforts to improve continuously its performance in all areas. In particular, Contractor will evaluate opportunities for cost/price reductions on items and services ordered and to be ordered and communicate them promptly to Company. Contractor has specifically identified target cost reductions of 2% beyond the prices shown in [] for the initial Term, and agrees to work diligently with Company personnel toward attainment of this objective. Contractor is expected to advance its economies of production, service, service delivery, material handling and technical prowess at least as fast as other competitors in its industry, and to offer the price and performance benefits of those improvements to Company, as soon as they become available."
- 10.26 No Dispute. Contractor covenants 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 Contractor and/or any of Contractor's affiliates and Company and/or and of Company's affiliates.
- 10.27 Contractor Security Requirements. Contractor is to comply with Company's Contractor Security Requirements in its performance of its Work for Company under this agreement.

Company Information:

(1) The term "Company Information" means all information, in any form: (i) furnished or made available directly or indirectly to Contractor by Company or its Affiliates, or otherwise obtained by Contractor from Company or its Affiliates, or (ii) obtained from Company or Company's Affiliates in connection with the performance of the Services.

(2) Company Information shall be and remain the property of Company or its Affiliate(s), as appropriate. Contractor shall not possess or assert any lien or other right against or to Company Information. No Company Information, or any part thereof, shall be sold, assigned, leased, or otherwise disposed of or to third parties by the Contractor or commercially exploited by or on behalf of Contractor, its employees, or agents.

(3) Upon Company's request, the termination or expiration of this Agreement for any reason (including termination for cause) or, with respect to any particular Company Information, on such earlier date that the same shall be no longer required by Contractor in order to render the Services, Contractor shall promptly return to Company such Company Information (including copies thereof) in a form reasonably requested by Company or, if Company so elects, shall destroy such Company Information.

(4) Contractor shall not use Company Information for any purpose other than to render the Services.

(5) Contractor shall establish and maintain safeguards against the destruction, loss, alteration, or unauthorized use of Company Information which are equivalent to those "best practices" employed within the Contractor's industry.

(6) Contractor shall be familiar with and comply with the requirements of the NERC CIP- 004 for projects at NYSEG and RGE bulk electric substations (>230Kv). The specific CIP Standard follows:

CIP-004 Excerpt:

R3. Personnel Risk Assessment --The Contractor 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:

- i. R3.1. The Contractor 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 Contractor may conduct more detailed reviews, as permitted by law and subject to existing collective bargaining unit agreements, depending upon the criticality of the position.
- ii. R3.2. The Contractor shall update each personnel risk assessment at least every seven years after the initial personnel risk assessment or for cause.
- iii. R3.3. The Contractor 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.

10.28 Publicity. In no event shall Owner's or its Affiliates' names and/or logo or the name and/or logo of it's parent company be used (whether such use be written or verbal), duplicated, or reproduced by any means whatsoever without the prior written permission of the Owner.

All inquiries by any governmental, business, or other entity, including media, regarding any Work performed or to be performed by Contractor for Owner shall be directed by Contractor to Owner for response.

10.29 Utilization of Small Business Concerns. Contractor 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, and women-owned small business concerns shall have the maximum practicable opportunity to participate in the performance of Work.

10.30 Small Business Subcontracting Plan. In accordance with section 19.702(a) (1) and (2) of the Federal Acquisition Regulation, each Contractor (except small business concerns) whose contract is expected to exceed \$550,000 (\$1,000,000 for construction) and has subcontracting possibilities is required to submit an acceptable subcontracting plan to the Company. 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), and minority-owned; as defined by the National Minority Contractor Development Council. If the Contractor fails to submit a plan within the time limit prescribed by the Company, the Contractor may be ineligible for award.

The Contractor 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 550,000 (\$1,000,000 for construction) will be required to adopt a plan similar to this plan.

ARTICLE 11 - ACCEPTANCE

This Agreement is accepted by the authorized representatives of the Owner and Contractor:

OWNER

Kevin E. Walker

Signature

Kevin E. Walker

Print

Chief Operating Officer

Title

[Redacted]

Date

OWNER

[Signature]

Signature

DANIEL ALCAZAR

Print

CFO

Title

[Redacted]

Date

CONTRACTOR

[Redacted]

Signature

[Redacted]

Print

[Redacted]

Title

[Redacted]

Date

CONTRACTOR

[Redacted]

Signature

[Redacted]

Print

[Redacted]

Title


[Redacted]

Date

PUBLIC VERSION

APPENDIX A

Specifications and Schedule

 IBERDROLA USA	145kV GIS EQUIPMENT SPECIFIC REQUIREMENTS SPECIFICATION	DOCUMENT NUMBER SP-1836
---	--	-------------------------------



SPECIFICATION:	SP-1836
PROJECT:	Station 23 GIS Addition
REVISION 1:	

PREPARED BY:		DATE:	6/17/2011
REVIEWED BY:		DATE:	
REVIEWED BY:		DATE:	
REVIEWED BY:		DATE:	
APPROVED BY:		DATE:	

Revision	Date	Description
1		Address Iberdrola Review Comments

1. GENERAL

- 1.1. This specification contains a specific description of technical requirements to which the SELLER and SELLER's product shall conform for the 145kV GIS equipment to be supplied under this unique specification number. In addition, the SELLER and SELLER's product shall conform to the Standard Requirements identified in Specification TM.2.72.02 (attached).
- 1.2. Station 23 is an RG&E substation located inside a building in downtown Rochester, NY. The existing equipment consists of 2-115 kV GIS sections, 2-115/11 kV power transformers, 1-11 kV phase shifting transformer, 4-11 kV medium voltage switchgear sections and various control and protection panels and equipment. The 2-115 kV GIS equipment sections are directly connected by an oil to gas interface to the 2-115/11 kV transformers. There are 2-115 kV oil filled pipe type cables feeding the 2-115 kV GIS sections (Referring to circuits 901 and 920)".

2. SELLERS SCOPE OF WORK

- 2.1. Replace the existing 115 kV GIS lineup with a new 115 kV GIS lineup as described below and in Iberdrola USA Standard Specification TM.2.72.02.
- 2.2. Replace the existing 115kV protection and control panels with new panels, which will incorporate the GIS equipment LCC functionality and equipment. The new panels will be installed in a new control room with a raised computer floor. SELLER will also be required to cooperate in the engineering and integration of OWNER supplied equipment indicated in this specification, including: AC and DC equipment, HMI, communications equipment, etc.
- 2.3. Install all high voltage 115kV GIS bus connections and associated supports and terminations. This includes bus and terminations to all transformers and the existing 115 kV oil filled pipe type cable connections using GIS or * Duresca 115 kV bus runs and GIS to oil interfaces if applicable.
- 2.4. All control wiring (including interface wiring between GIS equipment and new relay panels), conduit, cable trays, and ancillary equipment.
- 2.5. Provide all protection and control equipment except for the principal protective relays (purchased by Owner and furnished to Seller) associated with this scope of work. Seller to provide the bay controller (LCC functionality) and auxiliary relays.
- 2.6. All equipment, bus, power cable, control wiring, protection and control equipment and any other devices or conductors installed by the supplier shall be tested according to applicable ANSI standards. The seller is responsible for the commissioning of all equipment supplied.
- 2.7. All civil and structural work associated with the GIS installation, including: GIS equipment foundations crane support, equipment supports, bus supports, pot head supports, etc. duct bank repair/replacement/installation. Civil work to include replacement of the existing asphalt in the new GIS area with a concrete slab that incorporates GIS foundations. Civil and structural drawings must be stamped by a NY PE.
- 2.8. Removal of the existing 115kV GIS equipment. Deposition of equipment to be determined by Owner.
- 2.9. All engineering and design for the 115kV GIS, HV bus, terminations, P&C equipment and ancillaries required for the turnkey operation of the GIS.
- 2.10. Provide input and specifications required for the Owner to modify building walls and superstructure. Cooperate with the Owners modification to HVAC systems and integrate into control room design.
- 2.11. The Seller will provide equipment ground bonding of the GIS to itself and also provide grounding attachment points for connection of the GIS to the remaining station ground grid. The Seller shall install grounding within the GIS room area where they are responsible for foundations and concrete slab. The Seller to provide specification and engineering input for the development of the substation grounding system.

3. OWNERS SCOPE OF WORK

- 3.1. Relocate existing 11 kV phase shifting transformer.
- 3.2. Install 2-115/34.5 kV transformers and connect to new 34.5 kV GIS medium voltage switchgear.
- 3.3. Optional owner work that may be completed as part of the current project or at a later date:
 - 3.2.1.1. Replace two (2) -115/11 kV transformers with two new 115/11 kV units.
 - 3.2.1.2. Replace four (4) 11 kV medium voltage switchgear sections with new medium voltage GIS equipment, and reconnected to the new 115/11 kV transformers reusing the existing medium voltage MV Bus Duct as much as possible.
- 3.3. Provide HMI, communications equipment and system integration programming.
- 3.4. Modify building HVAC system.
- 3.5. Install new batteries and DC and AC systems.
- 3.6. Construct new control room with raised computer floor including construction of walls, doors, conduit, tray, electrical wiring and lighting in accordance with NYS building codes and the NEC.
- 3.7. Modify building structure including wall removal and installation, and reinforcement to superstructure if required to support bus duct loads.
- 3.8. Supply conventional protective relays (with exception of bay controller and auxiliary relays) for the Seller to install on the panels.

4. REFERENCE DRAWINGS

4.1. Project Drawings and Documents:

TM.2>72.02 Iberdrola Standard 145kV GIS Specification

DWG.33300-X STA 23 SINGLE LINE OVERVIEW SH1

DWG.33300-X STA 23 DB 115 KV SINGLE LINE SH2

DWG.33300-X STA 23 34.5 KV SINGLE LINE SH3

DWG.33300-YY PRELIMINARY LAYOUT SH1 to SH 3

DWG.33300-Z STA 23 COMM SH1 COMMUNICATION ONE LINE

DWG.33300-Z STA 23 COMM SH2 COMMUNICATION ONE LINE

DWG.33300-Z STA 23 COMM SH3 COMMUNICATION ONE LINE

DWG.33300-Z STA 23 COMM SH4 COMMUNICATION ONE LINE

DWG.33300-Y STA 23 R1L 1T SH2 RELAY ONE LINE

DWG.33300-Y STA 23 R1L 3T SH7 RELAY ONE LINE

DWG.33300-Y STA 23 R1L 7X SH5 RELAY ONE LINE

DWG.33300-Y STA 23 R1L 901 SH1 RELAY ONE LINE

DWG.33300-Y STA 23 R1L 920 SH6 RELAY ONE LINE

DWG.33300-Y STA 23 PRI BUS DIFF SH3 RELAY ONE LINE

DWG.33300-Y STA 23 SEC BUS DIFF SH4 RELAY ONE LINE

DWG.33300-BB STA 23 -Panel Elevations

DWG.33300-AA STA 23 –Conceptual Control Room Layout

SP-1838 Standard Protection and Control Switchboard specification

SPR-1236 System Protection Requirements

4.2 Existing RG&E Station 23 Building drawings:

PUBLIC VERSION

DRAWING 33300-108 SH2 SUBSTATION 23 GENERAL ARRANGEMENT SECTIONS

DRAWING 33300-108 SH3 SUBSTATION 23 GENERAL ARRANGEMENT SECTIONS

DRAWING 33300-111 SUBSTATION 23 TRANSFORMER BAY WALLS ARRANGEMENT & DETAILS

DRAWING 33300-113 SH1 SUBSTATION 23 ROOF PLAN

DRAWING 33300-113 SH2 SUBSTATION 23 GENERAL ROOF DETAILS

DRAWING 33300-113 SH3 SUBSTATION 23 GENERAL ROOF DETAILS

DRAWING 33300-126 SUBSTATION NO 23 EXTERIOR FOUNDATION WALL ELEVATIONS D-D AND G-G

DRAWING 33300-133 SUBSTATION NO 23 STRUCTURAL STEEL ROOF PLAN

DRAWING 33300-151 SUBSTATION 23 DUCT LAYOUT PLAN

DRAWING 33300-152 SUBSTATION 23 DUCT LAYOUT MANHOLE DETAILS & SECTIONS

DRAWING 33300-153 SUBSTATION 23 DUCT LAYOUT SECTION AA, BB, CC

DRAWING 33300-154 SUBSTATION 23 DUCT LAYOUT SECTIONS EE, FF, GG, HH, KK

DRAWING 33300-155 SUBSTATION 23 GROUNDING AND EMBEDDED CONDUIT LAYOUT

DRAWING 33300-158 SUBSTATION 23 WEST TRANSFORMER AREA EMBEDDED CONDUIT

DRAWING 33300-159 SUBSTATION 23 EAST TRANSFORMER AREA EMBEDDED CONDUIT

DRAWING 33300-160 SUBSTATION 23 SWITCHGEAR AREA EMBEDDED CONDUIT

DRAWING 33300-161 SUBSTATION 23 EMBEDDED CONDUIT SECTIONS AND DETAILS

DRAWING 33300-228 SUBSTATION 23 TRANSFORMER BAY WALLS WEST BAY ARRANGEMENT AND DETAILS

DRAWING 33300-229 STA 23 115 KV OIL PIPE CABLE POTHEAD STRUCT WEST BAY

DRAWING 33300-249 STA 23 REMOVEABLE ROOF PLAN & DETAILS WEST BAY

5. EQUIPMENT REQUIREMENTS

PUBLIC VERSION

5.1. Following is a summary of the major equipment included in this specification.

Item #	OPCo	Substation	[Quantity] and Description	Date Req'd
1	RG&E	23	145 kV GIS Switchgear, 2,500A 40 kA	Oct 2013
2	RG&E	23	115 Bus and Terminations to Four Transformers and Two Transmission Ckts (901 and 920)	Oct 2013
3	RG&E	23	115 kV Protection and Control panels with integrated GIS (LCC) controls	Oct 2013

*SELLER TO Quote Best Delivery Available

5.2. Thermal ratings

Description	Nameplate Rating (Amps)	SUMMER (Amps)			WINTER (Amps)		
		Normal	LTE	STE	Normal	LTE	STE
Line 901		1060	1190	1220	1220	1320	1350
Line 920		1060	1190	1220	1220	1320	1350
75 MVA Transformer	377	395	489	753	452	546	753

5.3. 115 kV GIS lineup comprising the following major sections

Refer to Sta 23 Single Line diagrams 33300-X Sh 1 and 2 for equipment requirements.

Quantity	Description
4	Outdoor cable connected transformer bay – Section 3.1 of General Specification
1	Bus coupler bay 2 Section 3.6 of General Specification
2	Cable connected feeder bay Section 3.3 of General Specification Note: Circuit 901 will require five (5) sets of 3 phase current transformers
1	Bus measuring and grounding bay Section 3.10 of General Specification
Lot	96kV Surge Arresters as shown on the single line diagram
2	Provisions for future Cable connected feeder bays
Lot	115kV HV Bus and terminations to connect to four (4) transformers (TX 1,2,3,4) Note TX 1 and 2 may be replaced with new transformers.
Lot	115kV Protection and Control panels Note that GIS controls (LCC) is to be integrated and installed on the P&C panels.

5.4. HV Bus Arrangements

PUBLIC VERSION

5.4.1. GENERAL

- 5.4.1.1. HV bus runs to transformers and existing 901 and 920 oil filled cable terminations will be the responsibility of the Seller, including any required supporting devices. Seller shall be responsible for the structural integrity of the equipment supports. Owner shall be responsible for any modifications to the building superstructure based on input and specification provided by the Seller.
- 5.4.1.2. Seller may elect to connect to existing oil to SF6 pothead on Ckt 920, or replace existing pothead if required. Seller may elect to replace existing oil to air pothead on Ckt 901 with new termination connection if required to maintain electrical clearance. Note: Seller is required to Warrant entire GIS system including any reuse of existing GIS potheads
- 5.4.1.3. The SELLER will be responsible to closely coordinate the design of the HV Bus with the supplier of the transformers such that electrical clearances are maintained.

5.4.2. SELLER shall provide proposals for the following bus arrangements:

- 5.4.2.1. Base proposal (Bus Arrangement #1) shall be based on GIS bus from the GIS equipment to TX1, TX2, TX3, TX4 and existing HPOF Cable potheads for ckts 901 and 920. Connections to the transformers are in open air for the base proposal. This assumes the 115kV/11kV transformers are replaced on this project and adequate clearance is available for GIS to air connection.
- 5.4.2.2. Alternate Proposal 1A provide pricing to connect HV GIS Bus to existing Gas/Oil terminal of new transformers TX1 and TX2.
- 5.4.2.3. Alternate Proposal 2 - Optional proposal (Bus Arrangement #2) The SELLER shall provide optional pricing for the following bus arrangement:

GIS bus from the seller supplied GIS equipment to TX2, X3 and existing HPOF Cable pothead for ckt 901.

Duresca Bus to be used for connection to TX1, TX 4 and ckt 920. Connections to the transformers are in open air. This assumes the 115kV/11kV transformers are replaced on this project

- 5.4.2.4. As alternative 2A provide pricing to connect HV Bus to existing SF6 to Oil terminal of transformers TX1 and TX2.
- 5.4.2.5. SELLER Proposed option. (Bus Arrangement #3) The SELLER shall provide his most economic solution using, GIS bus, Duresca Bus or EPR Cables.

6. PROTECTION AND CONTROL

- 6.1 New 115kV protection and control panels shall be supplied for all new and existing 115kV equipment. See SPR-1236 "System Protection Requirements" for preliminary protection details.
- 6.2 Conceptual relay and communications one line diagrams are attached.
- 6.3 The panels shall be constructed in accordance with the attached "Protection and Control Switchboard" specification SP-1838
- 6.4 Conceptual panel elevations are shown on DWG.33300-BB "Panel Elevations".
- 6.5 The new panels will be installed in a new control room with a raised computer floor.
(Raised computer floor by owner) See DWG.33300-AA STA 23 –Conceptual Control Room Layout for desired conceptual configuration of equipment. Actual layout to be determined in detailed engineering.
- 6.6 Auxiliary Power Ratings:
 - 6.6.1.1 DC: 125 VDC (relay control voltage)
 - 6.6.1.2 AC: 120/240 VAC single-phase

7. BUILDING MODIFICATIONS

- 7.1. The 145kV GIS equipment is being installed within an existing building.
- 7.2. The 145kV GIS equipment shall be designed to physically fit within the enclosed area shown in the attached Preliminary layout Sketch General Arrangement Plan Drawing #33300-YY Sh. 1 to 3 and as shown on the attached single line diagram 33300-X sh2. A pre bid meeting and site inspection is required so that the SELLER fully understands the site restrictions.
- 7.3. Note that some walls may need to be removed to accommodate Seller's equipment and new walls installed as indicated on the Preliminary Layout Sketch. The Owner will be responsible for architectural aspects of this project, including building modifications in accordance with all applicable building codes. The Seller shall provide input and all specifications required for the installation of their equipment for the Owner to adequately design the building modifications.
- 7.4. The Seller is responsible for determining routing of the HV Bus. This must be done in cooperation with the Owner to coordinate the optimum location for all bus duct being installed. Note that additional MV Bus Duct will also be installed for the 34.5kV and 11kV systems by Owner. The Seller shall specify loading to the building structure to support the HV Bus to be installed.
- 7.5. Seller shall be responsible for supplying and installing all equipment that IUSA will require in the future to maintain the equipment. This would include the supply and installation of a crane. It is preferred that the crane be supported by new foundations to be installed by Seller.
- 7.6. Owner shall finalize the Building layout and provide Civil/Structural and electrical drawings for this project that are approved and stamped by a NY PE

8. Surge Arresters

- 8.1. Surge Arresters shall be rated 96kV (77kV MCOV) and located as shown on DWG.33300-X STA 23 DB 115 KV SINGLE LINE SH2.
- 8.2. Owner may elect not to purchase the GIS with surge arresters. Supplier to provide optional pricing for each set of arresters for Owner's option.

9. TURNKEY DELIVERY AND INSTALLATION

- 9.1. Seller's responsibility shall include turnkey delivery, installation, testing and commissioning of Seller provided equipment and removal of existing GIS equipment.
- 9.2. Delivery FOB to substation.
- 9.3. Station 23 is located in the downtown Rochester area. Delivering and unloading the 145kV GIS equipment will require obtaining permits to shut down street access. It shall be the SELLER's responsibility to obtain any necessary permits and to provide traffic control personnel in order to deliver and off-load the equipment and accessories.
- 9.4. Seller shall develop a construction sequencing plan and coordinate outages with RG&E's Energy Control Center and operations. Availability of Outages will be dependent on weather and system conditions. Outages during summer loading periods may be difficult to obtain.

PUBLIC VERSION

- 9.5. A pre-bid meeting and site inspection is required so that the SELLER fully understands the scope of work required to complete the delivery and installation of the 145kV GIS equipment.

10. SHIPPING

- 10.1.1. The 145kV GIS equipment shipping terms shall be: FOB Destination, installed in RG&E Station 23, 228 State Street, Rochester, NY 14614.
- 10.1.2. SELLER shall notify Allan Nisbeth of RG&E at 585-771-4345 (Monday through Friday, 8:00 AM - 4:30 PM) at time of shipment from factory.
- 10.1.3. SELLER shall also insure carrier notifies Allan Nisbeth at least 48 hours prior to arrival at job site.

11. ORDER ACKNOWLEDGEMENT

- 11.1. Supply one copy of the order acknowledgement and any subsequent revisions to:

Attn: Allan G. Nisbeth
Electric System Engineering
RGE/NYSEG
585-771-4345
allan_nisbeth@rge.com

12. PROPOSAL REQUIREMENTS

The following contains a detailed, formatted listing of technical, performance and commercial product related data the SELLER is to supply with the proposal. This data shall be considered guaranteed data and SELLER shall assume all responsibility for OWNER incurred costs should the actual performance of the equipment supplied under this specification deviate from the performance indicated by the above guaranteed technical performance and commercial data.

The SELLER SHALL BE REQUIRED to provide the following information:

- a) Make copies of the subsequent pages marked "PROPOSAL QUESTIONNAIRE" and fill in the commercial and technical data requested.
- b) Provide proposal documentation specified in any supporting specifications such as the Protection and Control Panel Specification.
- c) If alternates are requested or proposed and result in proposal requirements different from the base proposal, then the SELLER shall submit copies of the subsequent pages for each alternate as necessary.

BUYER MAY REJECT THE PROPOSAL OF ANY SELLER PROVIDING INCOMPLETE PROPOSAL DATA.

The SELLER shall attach the following information to the proposal:

Attachment #1 - The SELLER shall attach the latest catalog information describing the 145kV GIS equipment proposed. Include technical and commercial information.

Attachment #2 - The SELLER shall attach a complete list of all tests proposed to be performed on the 145kV GIS equipment and any other equipment supplied on this proposal.

Attachment #3 - The SELLER shall attach an individually priced list of recommended spare parts.

Attachment #4 - The SELLER shall attach a complete description of the warranty specified.

PUBLIC VERSION

Attachment #5 - The SELLER shall provide a CPM schedule for the manufacture, delivery and installation of the required equipment.

Attachment #6 - The SELLER shall provide a complete description of SELLER's equipment, equipment installation, testing and commissioning process.

Attachment # 7 – The SELLER shall provide a detailed listing of all equipment to be supplied with ratings, description, model, and manufacturer.

Attachment # 8 – The SELLER shall provide a description of his project management approach for the project and proposed organization structure with resumes of key individuals.

Attachment # 9 – The SELLER shall provide an electrical single line, physical drawings and any other drawings needed to clearly depict their proposed installation in the Sta 23 building.

Attachment # 10 – The SELLER shall provide a description of the training program proposed for IUSA operating and maintenance personnel.

Attachment # 11 – The SELLER shall provide a clause by clause statement of compliance or exception to the specifications.

145 kV Gas-insulated Metal-Enclosed Switchgear for indoor Substations

Request For Purchase No.

GIS System	
	Comments
Rated service voltage (kV rms)	115kV rms
Rated maximum voltage (kV rms)	145kV rms
Rated frequency (Hz)	60Hz
Rated continuous current	2500 Amps
Bus (A rms)	2500 Amps
Line positions (A rms)	2500 Amps
Rated short-circuit current (kA rms)	40 kA rms
Short-time current duration (s)	3 seconds (acceptable)
Peak withstand current (close and latch) (kA rms)	104kA
Withstand voltages:	
Power frequency (kV rms)	275kV
Full wave impulse (BIL)	650kV
Switching impulse (SIL), if required	N/A
Maximum acceptable moisture level :	
Circuit breaker (PPMV)	300
Compartments where arcing is expected (PPMV)	300
CIRCUIT BREAKERS	
Number of breakers to be supplied	7 Units
Voltage range factor	1
Rated continuous current (A rms)	2500
Rated short-circuit current (kA rms)	40kA
Rated short time current duration (s)	3 Seconds
Rated peak withstand current (closing and latching) (kA rms)	104kA
Rated opening time (ms)	27ms
Rated closing time(ms)	<60ms
Rated interrupting time (ms)	<50ms
Rated permissible tripping delay (s)	1
Rated capacitor switching current (A rms)	160 (Cable Charging)
Rated operating duty cycle	O-0.3 Sec- CO-15sec- CO-50sec-CO
Type of operating mechanism	Spring-Hydraulic
Breaker operating time for rated control voltage and pressure	<50ms
Opening time from energizing of trip coil to contact parting (ms)	27ms
Closing resistors (if applicable):	N/A
Ohmic value of closing resistors per phase (ohms)	N/A
Insertion time during closing (ms)	N/A

PUBLIC VERSION

Internal SF6 GIS pressure at 20 °C (psig)	87psig
Maximum foundation loading during operation:	
Horizontal (pounds, force)	0
Vertical (pounds, force)	7194lbs(32kN)
Motor Data:	
Motor capacity	660W
Number and type	1DC Motor
Power of each (W)	660W
Voltage and number of phases (V)	125VDC
Current, start/run (A)	20/6
Total heater power per breaker (W)	70
Control circuit:	
Rated dc control voltage (V)	125VDC
Closing voltage range (V)	90-140VDC
Maximum closing current (A)	7
Tripping voltage range (V)	70-140VDC
Maximum tripping current (A)	9
Number of trip coils per breaker	2
Number of operations before the breaker must be removed from service for maintenance inspection:	
No-load mechanical	10000
Full load non-fault	5000
Rated short-circuit current	20
Expected number of hours required to perform a complete maintenance inspection of one breaker (including gas handling time)	12 Hours
Maximum guaranteed noise level, during operation, at a point (10 ft) from the breaker (dB)	91.8dB @ 13 feet (acceptable)
Number of breaker operations without recharging	Q-CO
Number of full reclosing operations without overheating the closing resistors (specify the closing duty for the thermal rating), if applicable	N/A
CURRENT TRANSFORMERS	
Number of CT's to be installed	4 Cores Per feeder
Current Rating	3000
Ratio	3000/5 (MR)
Accuracy Class	C800
Voltage Transformers	
Number of VT's to be installed	4 (3 phase VTs)
Voltage Rating	115kV/√3:115V/69V
Ratio	115kV/√3:115V/69V
VA rating	0.3z

Surge Arresters

Number of SA's to be installed	2 (3-phase arrestors shall be provided)
Voltage Rating	Ur: 73kV (77kV Maximum Continuous operating voltage)
Manufacturer	ABB
Type	AZ

DISCONNECT SWITCHES

Rated full-wave impulse withstand voltage	650kV
Across the open gap (kV peak)	750kV
Power frequency 1 min withstand voltage:	275kV
Across the open gap (kV rms)	315kV
Number of switch-operating-mechanism operations before internal visual inspection or servicing	5000
Maximum control voltage (Vdc)	140VDC
Minimum control voltage (Vdc)	90VDC
Current, start/run (A)	<12/<2A
Maximum opening current (A)	<12(start current)
Maximum closing current (A)	<12(start current)
Heater power per three-pole switch (W)	10 W
Main current-carrying contact material	Copper+silver
Base material and specification	Aluminum Alloy
Contact insert	Not stated
Plating material	Silver
Control data for operating mechanism:	125VDC
Operating time (s)	<2s
Data to confirm short time withstand & peak withstand current	40kA, 3sec/104kV (peak)
Maximum charging current interrupting capability (A)	100mA

GROUNDING SWITCHES (MAINTENANCE)

Rated peak withstand current (close and latch) (kA rms)	104kA
Number of mechanical operations before internal visual inspection or servicing	5000
Number of closing operations into energized bus without damage	None
Maximum control voltage (Vdc)	140VDC
Minimum control voltage (Vdc)	90VDC
Current, start/run (A)	<12A / <2A
Maximum opening current (A)	12 (start current)
Maximum closing current (A)	12 (start current)
Control data for operating mechanism:	
Operating time (s)	<2s
Heater power per three-pole switch (W)	10W

PUBLIC VERSION

Data to confirm short time withstand & peak withstand current	40kA, 3Sec/104kA (peak)
GROUNDING SWITCHES (FAST-ACTING)	
Rated peak withstand current (close and latch) (kA rms)	104kA Peak
Number of mechanical operations before internal visual inspection or servicing	2000
Number of closing operations into energized bus without damage	2
Maximum control voltage (Vdc)	140VDC
Minimum control voltage (Vdc)	90VDC
Current, start/run (A)	12, <3 A
Maximum opening current (A)	12(Start Current)
Maximum closing current (A)	12(Start Current)
Heater power per three-pole switch (W)	10W
Control data for operating mechanism:	125VDC
Operating time (s)	<2, closing 50ms after spring charging
Data to confirm short time withstand & peak withstand current	40kA, 3Sec/104kA (peak)
Grounding switch interrupting capacity, if specified and agreed (A)	Capacitive: 2A/6kV recovery voltage Inductive: 80A/2kV recovery voltage
Expected number of hours required to perform a complete maintenance inspection of one fast-acting grounding switch (including gas handling time)	<8hours
HV Bus (Repeat for each type of bus or cable proposed to the transformers and Ckt 901 and 920)	
Manufacturer	ABB
Model/Type	GIS
Current Rating Continuous Normal	2500A
Current Rating LTE (4hour)	116% @ 30deg
Current Rating STE (15min)	133% @ 30 deg
Voltage rating	145kV
Short Circuit withstand rating	40kA, 3Sec
Power frequency withstand rating, 1minute	275kV
Lightning Impulse Voltage	650kV
Length of Bus	As per drawing # 1HDZ9140003 revA, dated 11/9/11
Termination Type and manufacturer	OHL/Cable End - ABB

PUBLIC VERSION

APPENDIX B

Agreement Sum and Payment Schedule

Agreement Sum: [REDACTED] (Delivery and Install one (1) 115kV GIS .

Total Cost Including Optional and Additional costs Bus Option 1 at CMP's discretion:

[REDACTED]

Payment Terms: [REDACTED] from invoice.

BID PRICE
[REDACTED]

Milestone Payments
Issuance of Purchase Order
Submission of Approval Drawings
Receipt of Major Materials at the Factory
Delivery, Installation, Testing & Commissioning

PUBLIC VERSION

APPENDIX C

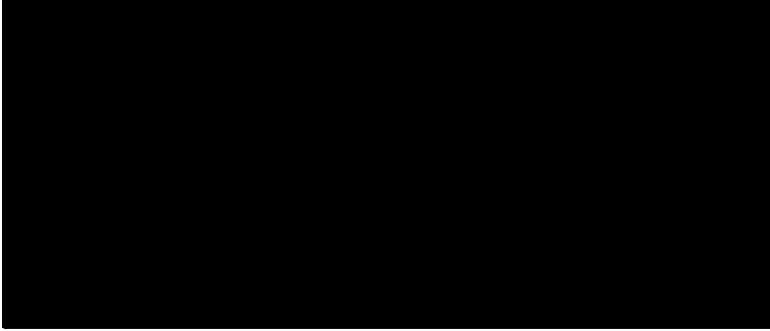
Contract Datasheet

Section	Item	Contract Data
	Buyer's name and address	Iberdrola USA Management Corporation 89 East Avenue Rochester, NY Attention: Jacqueline Tucci Contract Administrator
	Contract Currency	US Dollars (USD)
	Buyer / Contract Administrator	Jacqueline Tucci Phone (585) 771-8340
	Warranty Period	
	Owner Permits	See Appendix H (Permits)
1.11	Site Access Date	
1.15	Substantial Completion Date	
1.4	Final Completion Date	
	Project e-mail	<u>Pradeep_PImanabhan@rge.com</u> cc. Allan_Nisbeth@rge.com

APPENDIX D

Contractor's Key Personnel and Subcontractors

Potential Site Works Sub-Contractors:



Form of Invoice



Document G702/CMa⁺ – 1992

Application and Certificate for Payment Construction Manager-Adviser Edition

TO OWNER:	PROJECT:	APPLICATION NO:	ORDER NUMBER:
		PERIOD TO:	OWNER <input type="checkbox"/>
FROM CONTRACTOR:	VIA CONSTRUCTION MANAGER:	CONTRACT DATE:	CONSTRUCTION MANAGER <input type="checkbox"/>
		PROJECT NO:	ARCHITECT <input type="checkbox"/>
CONTRACT FOR:	VIA ARCHITECT:		CONTRACTOR <input type="checkbox"/>
			FIELD <input type="checkbox"/>

CONTRACTOR'S APPLICATION FOR PAYMENT

Appropriation is made for payment, as shown herein, in connection with the Contract.
Continuation Sheet AIA Document (170) is attached.

The undersigned Contractor certifies that the work of the Contractor's knowledge, construction and use of the Work, and the Payment has been completed in accordance with the Contract Documents, that all amounts due have been paid by the Contractor for Work for which payment Certificate for Payment was issued and properly received from the Owner, and that current payment should be made.

1. ORIGINAL CONTRACT SUM	\$ 100,000.00
2. Net change by Changes Orders	\$ 0.00
3. CONTRACT SUM TO DATE (Line 1 + 2)	\$ 100,000.00
4. TOTAL COMPLETED & STORED TO DATE (Column C on 401)	\$ 0.00
5. RETAINAGE:	
a. % of Completed and Work (Contract ID = E on C-703)	5%
b. % of Stored Material (Contract ID = C-703)	5%
Total Retainage (Line 5a + 5b) (Total for Column B on 401)	\$ 0.00
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$ 100,000.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 Less prior C/Ps)	\$ 0.00
8. CURRENT PAYMENT DUE	\$ 100,000.00
9. BALANCE TO FRESH, INCLUDING RET. DUE (Line 8 Less Line 6)	\$ 0.00

CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Construction Manager and Architect certify to the Owner that to the best of their knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CLERKED.

AMOUNT CERTIFIED \$

I, Anne B. Karpman, as president of the Board of Directors, declare the amount so certified. I declare that the amount so certified is correct and that the same is not in excess of the amount so certified by the Board of Directors. I declare that the amount so certified is not in excess of the amount so certified by the Board of Directors.

ARCHITECT:

[illegible]

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total Changes approved in previous results by Council	\$	\$
Total approved this Month	\$	\$
TOTALS	\$	\$
NET CHANGES by Change Order	\$	

© 2011 CME. You should sign an original AHA contract. Understand, in which they have spoken in AHA. An original system that changes will not be considered.

AA Document 6722 Title: 1998. Copyright © 1998 by the American Institute of Architects. All rights reserved. No part of this AA Document is permitted to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of the American Institute of Architects. This document is made available to you as a courtesy of the American Institute of Architects. It is not to be used for any other purpose. The American Institute of Architects is not responsible for any errors or omissions in this document. The American Institute of Architects is not responsible for any damages, including consequential damages, arising from the use of this document. The American Institute of Architects is not responsible for any claims, including consequential claims, arising from the use of this document. The American Institute of Architects is not responsible for any losses, including consequential losses, arising from the use of this document. The American Institute of Architects is not responsible for any injuries, including consequential injuries, arising from the use of this document. The American Institute of Architects is not responsible for any deaths, including consequential deaths, arising from the use of this document. The American Institute of Architects is not responsible for any disabilities, including consequential disabilities, arising from the use of this document. The American Institute of Architects is not responsible for any damages, including consequential damages, arising from the use of this document. The American Institute of Architects is not responsible for any claims, including consequential claims, arising from the use of this document. The American Institute of Architects is not responsible for any losses, including consequential losses, arising from the use of this document. The American Institute of Architects is not responsible for any injuries, including consequential injuries, arising from the use of this document. The American Institute of Architects is not responsible for any deaths, including consequential deaths, arising from the use of this document. The American Institute of Architects is not responsible for any disabilities, including consequential disabilities, arising from the use of this document.

Document G703[™] – 1992**Continuation Sheet**

USA Documents (702), APPLICATION AND CERTIFICATION FOR PAYMENT, containing Contractor's signed certification is attached.
Enclosures below amounts are stated to the nearest dollar.
Use Current Local Contracts where variable percentage for time periods may apply.

APPLICATION NO:
APPLICATION DATE:
PERIOD TO:
ARCHITECT'S PROJECT NO:

[illegible]

NOTE: The following is original Air Contract Document as when it first appears in 1913. All subsequent changes that change and that have been made.

AAA Document G783 - 1998. Copyright © 1993-1995, 1997-1998, 1999, 2000, 2001, 2002 by The American Society of Acoustics. All rights reserved. Warning: This document is protected by a copyright. No part of this document may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the American Society of Acoustics. This document is intended for personal use only. All other rights are reserved. For more information, please contact the American Society of Acoustics, 1000 North 17th Street, Rosslyn, VA 22209-4444, USA. Tel: 703/291-8500, Fax: 703/291-8501, Email: info@asa.org, Web: <http://www.asa.org>.

APPENDIX F

Change Order Pricing

1. General

Contractor's requests for Change Orders and proposals submitted by Contractor in response to a request for a proposal from Owner or Program Manager, including components thereof that involve Subcontractors (including any and all other lower tier sub-Subcontractors) shall be priced in accordance with this Appendix F, Pricing of Changes, unless otherwise directed by Owner. Owner has the right to select which of the methods of pricing changes in this Appendix is to apply to each Change Order or prospective Change Order. The options are:

- fixed price lump sum
- fixed unit price
- time and material

2. Fixed Price Lump Sum

Proposals for work to be undertaken on a fixed price lump sum basis shall follow the requirements set out herein for changes undertaken on either unit price basis or time and material basis, or a combination of both (Contractor to select the method), except that quantities of time, work and materials, and applicable rates and prices shall be estimated or chosen by Contractor prior to execution of the work. As part of its proposal for each change, Contractor shall submit details similar to those required by Sections 3 and 4, of this Appendix, as applicable.

3. Fixed Unit Price

3.1 The following **Table of Unit Prices for Defined Scopes of Work** shall be used for determining the price of all Change Orders where the fixed unit price method is selected by Owner and the scope of the changed work is described in the Table.

The unit prices set forth in the **Table of Unit Prices for Defined Scopes of Work** include all direct and indirect costs to Contractor of furnishing and installing the item, including all associated engineering and design costs, maintenance, fuel, delivery and installation charges, premiums for shift or night work, Site and off-site time-related costs, transport costs, taxes, overhead and markups (including for Work performed by Subcontractors, any handling or other administrative charge or mark-up of Contractor), and profits. Unit prices are firm through Final Completion.

Table of Unit Prices for Defined Scopes of Work

<i>To be Developed from RFP Proposal Form</i>			
--	--	--	--

3.2. Labor. If any change using unit prices, in whole or in part, involves labor not associated with work addressed in the **Table of Unit Prices for Defined Scopes of Work** in Section 3.1, the following hourly labor rates shall be used as the unit pricing of labor. Overtime and holiday rates apply only upon direction of Owner or Program Manager that the applicable work shall be undertaken at times that attract such rates. Holiday rates shall only apply to holidays for employees of the Contractor as demonstrated by submittal by Contractor of documentation

acceptable to Program Manager and approved. Overtime and holiday rates apply only to hours actually worked on the changed work. Unit prices are firm through Final Completion.

Table of Labor Rates for Changes Undertaken on Unit Price Basis Where Change Involves Labor Not Associated With Work Addressed in Unit Pricing for Defined Scopes Of Work.

<i>To be Developed from RFP Proposal Form</i>			
--	--	--	--

Any unit prices for labor not identified on the above Table shall be established consistent with the methodology used for pricing time and materials change orders in Section 4.

3.3. Equipment. If any change using unit prices, in whole or in part, involves equipment not associated with work addressed in the **Table of Unit Prices for Defined Scopes of Work** in Section 3.1, the equipment rates below shall be used as the unit pricing of equipment. Unit costs for labor associated with the operation of such equipment are not included in such equipment rates, and shall be determined in accordance with the table for labor in Section 3.2 above. Rates in the Table include for fuel and maintenance, including inspections and tests and ready-for-work start-up procedures. Standby rates shall be used only if Contractor mobilizes equipment to the Site pursuant to a Change Order, such equipment is maintained in operating condition, and Program Manager directs Contractor in writing not to use such equipment. Unit prices are firm through Final Completion.

<i>To be Developed from RFP 10487 Proposal Form</i>			
--	--	--	--

Any unit prices for equipment not identified on the above Table shall be established consistent with the methodology used for pricing time and materials change orders in Section 4 of this Appendix.

3.4. Materials. If any change using unit prices, in whole or in part, involves materials not associated with work addressed in the **Table of Unit Prices for Defined Scopes of Work** in Section 3.1, the Material costs shall reflect Contractor's net, verifiable, anticipated cost for the purchase of the material needed for the extra Work, including delivery charges.

4. Time and Material

Where the time and material price method is selected by Owner, Contractor shall perform such authorized extra Work for the sum of:

- (i) the actual cost of direct labor (working foremen, journeymen, apprentices, helpers) that undertook the extra work;
- (ii) the actual cost of labor burden associated with (i);
- (iii) the actual cost of material used in performing the extra Work;
- (iv) the computed cost or actual cost of rental of major equipment;
- (v) actual costs of additional general liability insurance and performance bond
- (vi) the Markup Percentage Fee applied to items (i), (ii), (iii) and (iv)

without any charge for administration and supervision including management, superintendents and general foremen, and the cost of or rental cost of small tools and minor equipment (defined as having a purchase price of less than \$1,000).

Owner and Contractor may agree in advance in a Change Order on a maximum price for Work priced on such basis, and Owner shall not be liable for amounts in excess of that maximum.

(i) Direct Labor

Labor costs included for self-performed work shall be based on the actual cost (excluding bonuses or other discretionary compensation) per hour paid by Contractor for those workers undertaking the extra Work.

(ii) Labor Burden

Allowable labor burden shall be defined as employer's net actual cost of payroll taxes (FICA, Medicare, SUTA, FUTA), net actual cost for employer's cost of union benefits (or other usual and customary fringe benefits (excluding bonuses or other discretionary compensation) if the employees are not union employees); and net actual cost to employer for worker's compensation insurance taking into consideration adjustments for experience modifiers, premium discounts, dividends, rebates, expense constants, assigned risk pool costs and net cost reductions due to policies with deductibles for self-insured losses and assigned risk rebates. Contractor shall reduce its standard payroll tax percentages to properly reflect the effective cost reduction due to the estimated impact of the annual maximum wages subject to payroll taxes.

(iii) Materials

Material costs shall reflect Contractor's net actual, verifiable, cost for the purchase and delivery of the material needed for the extra Work and shall include for any discounts, preferential pricing and rebates available to Contractor.

(iv) Equipment

Contractor-owned or Subcontractor-owned. Allowable "bare" equipment rental rates shall be the monthly rate listed in the most current publication of The DataQuest Blue Book divided by 176 to arrive at a maximum hourly rate to be applied to the actual hours of equipment usage, to which shall be added operating costs needed to undertake the extra Work

Contractor-rented or Subcontractor-rented. Allowable costs are the appropriate, verifiable, market rental rates for rental of major equipment needed to undertake the extra Work.

(v) General Liability Insurance and Performance Bond

Time and materials computations shall account for Contractor's net increase in comprehensive general liability insurance costs and costs for performance bond furnished by Contractor to Owner as a result of the extra Work. No Markup Percentage Fee is to be applied to increases in such insurance costs or performance bond costs.

(vi) Markup Percentage Fee

For any Work performed directly by Contractor and/or any Subcontractor (regardless of tier), the maximum Markup Percentage Fee shall be a single markup percentage not-to-exceed [REDACTED] of the net direct cost (excluding taxes) of (i) direct labor; (ii) allowable labor burden costs; (iii) the net cost of material; (iv) computed cost or actual rental cost of equipment including operating costs

and

for Work performed by lower tier contractors, the maximum, aggregate Markup Percentage Fee allowable to Contractor and/or Subcontractor(s) directly supervising the lower tier

contractor's work shall not exceed [REDACTED] of the net cost (excluding taxes) of all approved Work performed by all Subcontractors combined. (For the avoidance of doubt, this is a single markup and not separate markups for Contractor and supervising Subcontractor.).

The Markup Percentage Fee compensates Contractor for all costs and expenses incurred by Contractor and Subcontractors of all tiers in undertaking the extra work other than the amounts and/or costs identified and directly accounted for in (i), (ii), (iii), and (iv) above and provides for Contractor's profit and Subcontractors' (of all tiers) profit. Such costs and expenses include but are not limited to:

- Site field overhead and time-related costs and expenses;
- Site office overhead and time-related costs and expenses;
- local or branch office overhead costs and expenses;
- home office overhead costs and expenses;
- cost and expenses including those for Change Orders of management, superintendents, general foremen, estimating, shop drawings, permits, engineering, submittals, coordinating with others, purchasing, expediting, legal, finance and accounting, management information systems, computers and software, consultants not identified as subcontractors, administrative functions;
- record keeping and verification methods for time and materials;
- insurances except as specifically permitted;
- transport costs for management, superintendents, general foremen or others;
- warranty expenses and costs;
- cost of payment and performance bonds furnished by subcontractors to Contractor;
- the cost for the use of small tools (tools and equipment (power or non-power) with an individual purchase cost of less than \$1,000)

Record keeping forms and verification methods for time and materials Work shall be subject to approval of the Program Manager.

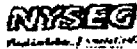
If requested by Program Manager, Contractor shall provide, and shall cause each Subcontractor at any tier to provide, evidence of its labor costs and a breakdown of its labor burden costs or estimates.

5. Equipment

The aggregate equipment charges for any single piece of Contractor-owned or Subcontractor-owned equipment used in all Work under Change Orders priced on fixed unit price or time and material basis shall be limited to the fair market value of the piece of equipment when the first Change Order is priced using fixed unit price or time and material involving usage of that piece of equipment.

APPENDIX G

Change Order Request Form
(Sample)

CHANGE ORDER REQUEST				
 NYSEG <i>Norfolk York State Electric & Gas Corporation</i>		P.O. Number:	12999	
		Contract Title:	Transmission Lines	
		Contract No.:	CUN-MPSP-S5-9999	
		COR No.:	00001	
		Date:	September 01, 2006	
		COR Title:	Design COR	
From: Contractor XYZ Contracting 123 Main St Anytown, MA 04001 Phone: (207) 555-9845		To: General Motor Power Company 63 Edison Drive Augusta, ME 04315 Phone: (203) 555-1888		
Change Mfr Number 00001		Reason Code:		
Description of Change:				
SUMMARY				
BREAKDOWN OF WORK				
Item	Description of Work	Quantity	Unit Price	Total Amount
0001	labor Expenses & Materials		\$1,000.00	\$1,000.00
TOTAL :				\$1,000.00

APPENDIX H

Permits

1. General

Contractor is responsible for verifying that all Permits, whether provided by Contractor or Owner, have been issued and are in force prior to initiation of any Work covered by such Permits and that Contractor and all its employees are familiar with the requirements and restrictions of all permits, regardless of whether or not such information is specifically called out by the Owner.

2. Contractor Permits

Contractor shall secure and maintain, at Contractor's sole cost and expense (including costs of preparation, any filing fees and/or charges, and any bonds or other performance assurance), all Permits (other than Owner Permits) for the Work, including, but not limited to, permits required for over-the-road delivery of materials as applicable.

Responsibilities of any other permits that arise shall be mutually agreed upon by the project team in accordance with responsibilities of the Work.

3. Owner Permits

Owner shall secure and maintain, at Owner's sole cost and expense (including costs of preparation, any filing fees and/or charges, and any bonds or other performance assurance), Permits listed in 3.1.

3.1 Listing of Permits

City of Rochester Building Permit

APPENDIX I

Insurance Requirements

Before commencing work on the Company site, the Contractor shall procure and maintain at its own expense during performance of its Work under this Agreement, the insurance types, limits, terms, and conditions listed in section one below. In addition, for any work that is authorized to be subcontracted, the Contractor shall require each subcontractor performing work on Company site to procure and maintain insurance as determined by Contractor.

IF YOU DO NOT HAVE A CURRENT CERTIFICATE ON FILE WITH OWNER prior to commencement of work on site, Certificates of Insurance evidencing Contractor's and/or subcontractor's possession of insurance as outlined in Section one shall be filed with Owner for its review.

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

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

1. **Required Insurance Coverage Amounts**

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

Each insurance policy, except Workers' Compensation and Employers' Liability, shall add Owner as an additional insured to the extent necessary to fulfill Contractor's obligations as set forth in the indemnification provision of this Agreement. All insurance where Owner is an additional insured must contain provisions which state that the policy will respond to claims or suits by Owner against the Contractor, to the extent of Owner's additional insured status thereunder. .

Each policy shall provide a minimum of [REDACTED] prior written notice of cancellation, intent not to renew, or material change in coverage.

In the event Contractor has a policy(ies) written on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the commencement of work under this agreement. In addition, the Contractor will maintain, for claims arising out of events occurring during the performance of Contractor's work under this agreement, a Discovery Period or "tail" for a period equal to the earlier of [REDACTED] following completion date of Contractor's work hereunder or until the expiration of the warranty period set forth in this agreement.

All of the insurance required hereunder will be primary to any or all other insurance coverage in effect for Owner, to the extent of Owner's additional insured status thereunder.

- 1.1 Workers' Compensation and Employers' Liability Insurance in accordance with the statutory requirements of the State of New York. For work that is conducted outside of New York State, the 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 \$1,000,000 per occurrence and in the aggregate.
- 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 using primary coverage in the amounts specified or by using a separate excess Umbrella Liability policy together with lower limit primary coverage.

Each General and/or Umbrella Liability Insurance policy shall include a Cross Liability clause

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

APPENDIX J-1

Lien and Waiver Release

TO ACCOMPANY EACH INVOICE
[LETTERHEAD OF CONTRACTOR]

DATE: []

TO:

[INSERT ADDRESS]

1. Rochester Gas and Electric Corporation (RGE) ("Company" or "Owner") and [] ("Contractor") have entered into an Agreement, dated [], (the "Agreement"), pursuant to which Contractor is to provide services in connection with Station 23 GIS equipment project (the "Project").
2. Section 8.2 of the Agreement provides, among other things, that, each invoice shall be accompanied by (i) the Contractor's waiver and release, subject to payment of the invoice by the Owner, of liens and claims relating to Work for which the Invoice or any prior invoice have been submitted, and (ii) a certificate that the Site, Work, materials and equipment described in the invoice and in all previous invoices are free and clear of all liens other than any liens extinguished upon receipt of payment by Contractor of such invoice. Contractor provides this instrument in order to satisfy the requirements of the aforesaid Section 8.2 in relation to Contractor's invoice no. [to be inserted] dated [to be inserted] (the "Invoice").

NOW THEREFOR:

1. Capitalized terms used and not defined herein shall have the meaning assigned to them in the Agreement.
2. Subject to payment by Company to Contractor of the sum of [], which sum represents the full amount due to Contractor under the Invoice less Retainage and less Punchlist withholding, if any, Contractor irrevocably waives its right to file, releases and relinquishes any lien, claim or security interest relating to Work for which the Invoice is submitted or any prior invoice has been submitted; provided, however, that no such waiver shall apply to unresolved claims submitted in writing to Company prior to the date of this Waiver and Release. Contractor hereby authorizes Company to file an amendment for any financing statement on file with respect to Company, the Work, the Project or the Site if (a) Contractor is the secured party of record with respect to such financing statement and (b) the amendment releases from the collateral under such

financing statement any collateral released by this instrument from any lien, security interest or claim in favor of Contractor, or with respect to which Contractor waived its right to file any lien, security interest or claim.

3. Contractor certifies that:

- 3.1 All amounts that were due and payable in connection with the Work or the Project under invoices issued prior to the Invoice have been paid by Company save in relation to Retainage and Punchlist Withholding, if any, which Contractor acknowledges that Company is withholding in accordance with Sections 3.9 and Section 4.4 of the Agreement and (b) [REDACTED] under Invoices Nos. [REDACTED], which are subject to dispute with Company.
- 3.2 Contractor has not directly or indirectly created any Contractor Lien relating to the Work, the Project, the Site or any part thereof or interest therein;
- 3.3 Contractor has promptly paid and discharged any Contractor Liens which, it suffered to be created by any Subcontractor, employee, laborer, mechanic, materialman or other supplier of goods or services relating to the Work, the Project, the Site or any part thereof or interest therein, except to the extent Lien Security has been provided by Contractor in connection therewith; and
- 3.4 Title to all Work is free and clear of any and all liens, claims, charges, security interests, encumbrances and rights of Persons other than Company arising as a result of any actions or failure to act of Contractor, its Subcontractors, or their employees or representatives, except to the extent Lien Security has been provided by Contractor in connection therewith.
- 3.5 THIS WAIVER OF LIENS AND CLAIMS SHALL BE GOVERNED BY, CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE PRINCIPLES THEREOF RELATING TO CONFLICTS OF LAW).

PUBLIC VERSION

IN WITNESS WHEREOF, Contractor has duly executed this instrument on the day and year first written above.

[Contractor's Name]

By: _____

Name: _____

Title: _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

APPENDIX J-2

**FINAL FORM OF WAIVER AND RELEASE
[LETTERHEAD OF CONTRACTOR]**

DATE: []

TO: [INSERT ADDRESS]

WHEREAS:

1 Rochester Gas and Electric Corporation (RGE) ("Company" or "Owner") and [] ("Contractor") have entered into an Agreement, dated as of [], (the "Agreement"), pursuant to which Contractor is/ was to provide construction services in connection with [Project Name & Number] Project (as more fully described in the Agreement, the "Project").

2. Article [number] of the Agreement provides, among other things, that, the Retainage shall not be paid to Contractor until Contractor submits an affidavit that all payrolls, bills for materials and equipment and other indebtedness connected with the Work have been paid or otherwise satisfied, and provides releases and waivers of liens arising out of the Agreement from itself and all Subcontractors with subcontract value in excess of \$10,000.

NOW THEREFORE:

1. Capitalized terms used and not defined herein shall have the meaning assigned to them in the Agreement.

2. Contractor hereby irrevocably waives its right to file, releases, and relinquishes any lien, security interest, or claim for payment (whether in tort, for breach of contract, pursuant to Law, in equity or otherwise) relating to Company, the Work, or the Project. Contractor hereby authorizes Company to file a termination statement for any financing statement on file with respect to Company, the Work, or the Project if Contractor is the secured party of record with respect to such financing statement.

3. Subject to Company's payment of the Retainage in the amount of \$_____, Contractor certifies that:

3.1 All amounts that were due and payable by Company in connection with the Work and the Project have been paid.

3.2 Contractor has not directly or indirectly created, incurred, assumed or suffered to be created by it or any Subcontractor, employee, laborer, mechanic, materialman, or other supplier of goods or services any Contractor Lien relating to the Work, the Project, or any part thereof or interest therein, except to the extent Lien Security has been provided by Contractor in connection therewith;

3.3 Contractor has promptly paid and discharged any Contractor Liens which, notwithstanding Section 3.2 hereof, it has directly or indirectly created or suffered to be created by it or any Subcontractor, employee, laborer, mechanic, materialman, or other supplier of

goods or services relating to the Work, the Project, or any part thereof or interest therein, except to the extent Lien Security has been provided by Contractor in connection therewith; and

3.4 Title to all Work is free and clear of any and all liens, claims, charges, security interests, encumbrances and rights of persons for payment other than Company arising as a result of any actions or failure to act of Contractor, its Subcontractors, or their employees or representatives, except to the extent Lien Security has been provided by Contractor in connection therewith.

3.5 THIS WAIVER OF LIENS AND CLAIMS SHALL BE GOVERNED BY, CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE PRINCIPLES THEREOF RELATING TO CONFLICTS OF LAW).

4. all Subcontractors and Persons that have provided labor, services, materials, supplies, Contractor's Equipment, Equipment, systems or machinery used in the performance of the Work have been paid all amounts which are due and owing them, with the exception of those amounts which are being disputed by Contractor in good faith, and Contractor has no knowledge of the existence of any other claim, actual or threatened by any Subcontractor or such Person, against Owner, Owner's property or all or any portion of the Equipment, Project, the Site or the existing facilities, other than claims for which Contractor has provided Lien Security.

IN WITNESS WHEREOF, the undersigned has duly executed this instrument on the day and year first written above

[Contractor's Name]

By: _____

Name: _____

Title: _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

APPENDIX K

Certificate of Substantial Completion

Date: _____

To: [Insert Address]

Ref: Certificate of Substantial Completion – [Project Name & Number] Project (“Agreement”) by and between Rochester Gas and Electric Corporation (RGE) (“Company” or “Owner”) and _____.

Contractor, by and through the undersigned officer, duly authorized to represent Contractor and execute and deliver this certificate (“Certificate”) to Owner, provides this Certificate to Owner under the Agreement. Capitalized terms used herein not otherwise defined shall have the meaning given such terms under the Agreement. Contractor hereby certifies to Owner as of the date hereof that the following are true and correct:

- (1) Substantial Completion of the Project was achieved on [date];
- (2) the Project is substantially complete in accordance with the Scope of Work, the Project Documents, and all required Governmental Authorizations and Permits, and is capable of commercial operation and safe operation for its intended purpose;
- (3) all Work required to be furnished by Contractor for the Project is substantially complete and all Equipment has been delivered to the Site and properly incorporated into the Project, except for Punchlist Items;
- (4) the Performance Tests and any other requirements necessary to demonstrate that the Project meets the Project Documents have been successfully completed and a certificate of the results, together with a copy of the reports of such test results have been provided to Owner;
- (5) the Punchlist Items, the schedule for completing the same and the estimated cost for completing the Punchlist, have been agreed to by Owner and Contractor;
- (8) all Subcontractors and Persons that have provided labor, services, materials, supplies, equipment, systems or machinery used in the performance of the Work have been paid all amounts which are due and owing them for the Project, with the exception of those amounts which are being disputed by Contractor in good faith, and Contractor has no knowledge of the existence of any other claim, actual or threatened by any Subcontractor or such Person, against Owner, Owner’s property or all or any portion of the Project, the Site or the existing facilities, other than claims for which Contractor has provided Lien Security; and

(9) the Project is capable of operation at expected operating levels in strict compliance with the terms of all operating Permits.

Executed on the day set forth in the first paragraph of this Certificate.

By: _____
Name: _____
Title: _____

CERTIFICATE ACCEPTED:

Rochester Gas and Electric Corporation (RGE)

By: _____

Print Name

Title

APPENDIX L

Certificate of Final Completion

Date: _____

To: [Insert Address]

Ref: Certificate of Final Completion – [Project Name & Number] Project (“Agreement”) by and between Rochester Gas and Electric Corporation (RGE)] (“Company” or “Owner”) and _____ (“Contractor”)

Contractor, by and through the undersigned officer, duly authorized to represent Contractor and execute and deliver this certificate (“Certificate”) to Owner, provides this Certificate to Owner under the Agreement. Capitalized terms used herein not otherwise defined shall have the meaning given such terms under the Agreement. Contractor hereby certifies to Owner as of the date hereof that the following are true and correct:

(1) Substantial Completion of the Project was achieved on [date], and all Punchlist Items were completed on [date];

(2) Contractor has performed site clean-up and restoration;

(3) Contractor has provided and caused the Subcontractors to provide to Owner all affidavits, statements, waivers, releases and posted any security required under Appendix J-2 (Final Form of Waiver and Release);

(4) Contractor has submitted to Owner and Owner has approved the final “as-built” drawings.

(5) Contractor has obtained all Governmental Authorizations which are the responsibility of Contractor under the Agreement and has provided copies of the same to Owner; and

(6) all Subcontractors and Persons that have provided labor, services, materials, supplies, Contractor’s Equipment, Equipment, systems or machinery used in the performance of the Work have been paid all amounts which are due and owing them, with the exception of those amounts which are being disputed by Contractor in good faith, and Contractor has no knowledge of the existence of any other claim, actual or threatened by any Subcontractor or such Person, against Owner, Owner’s property or all or any portion of the Equipment, Project, the Site or the existing facilities, other than claims for which Contractor has provided Lien Security.

Executed on the day set forth above.

By: _____
Name: _____
Title: _____

CERTIFICATE ACCEPTED:

ROCHESTER GAS AND ELECTRIC CORPORATION

By: _____

Print Name

Title

APPENDIX M

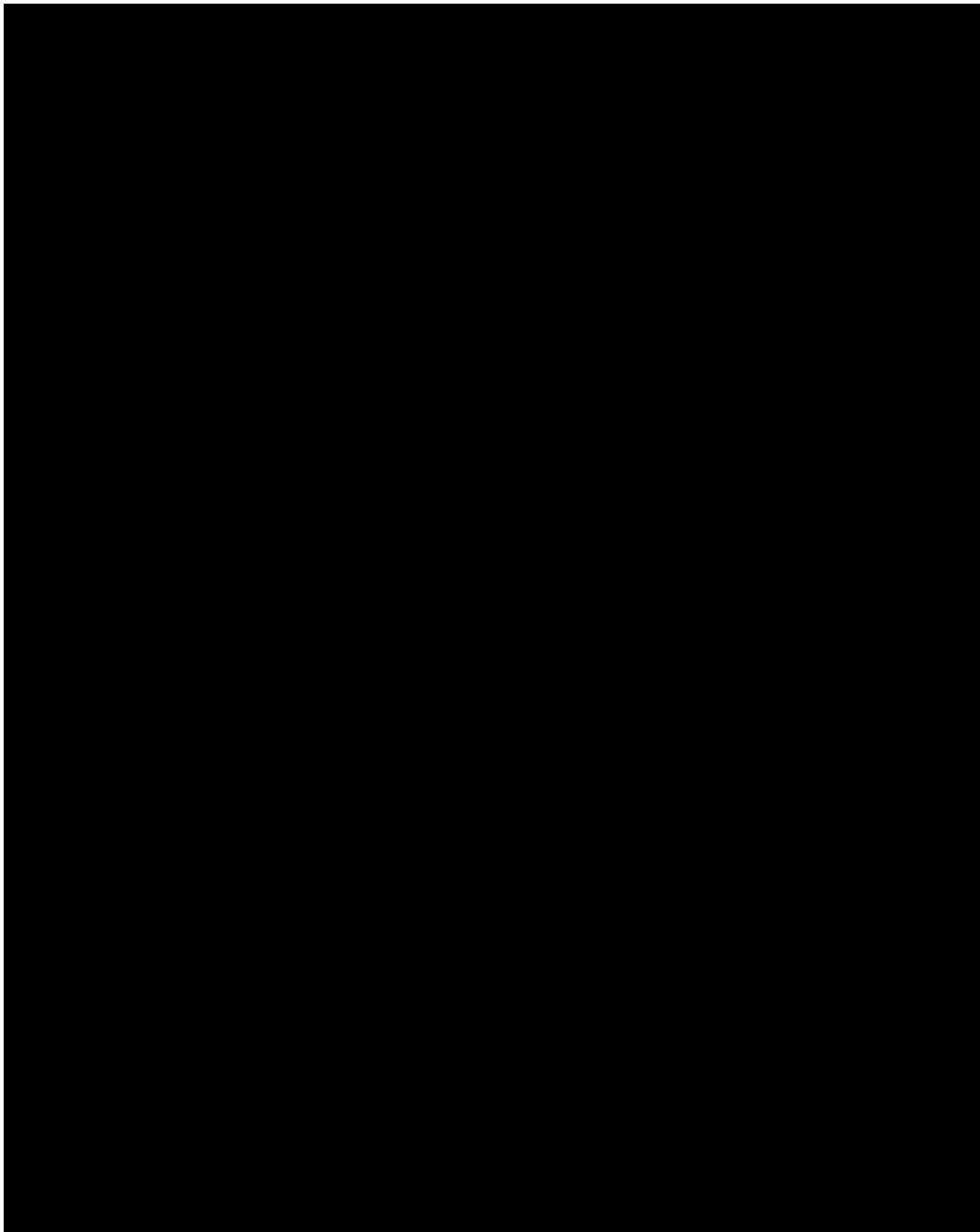
Contractor Safety Requirements

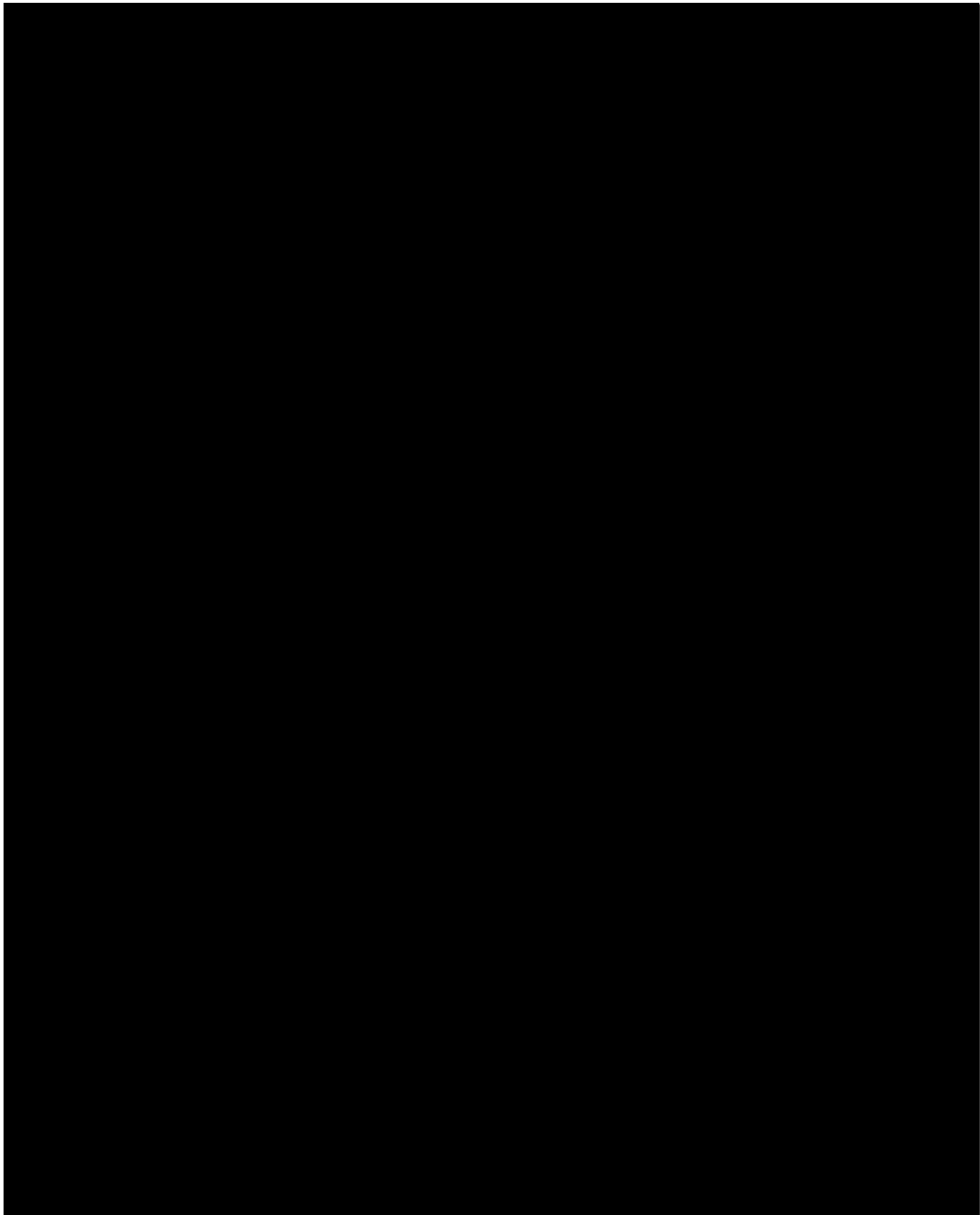
In addition to the Contractor Safety Requirements in this Appendix M, Contractor will be required to take a site specific training. It will be requested that Contractor acknowledge the safety training when completed.

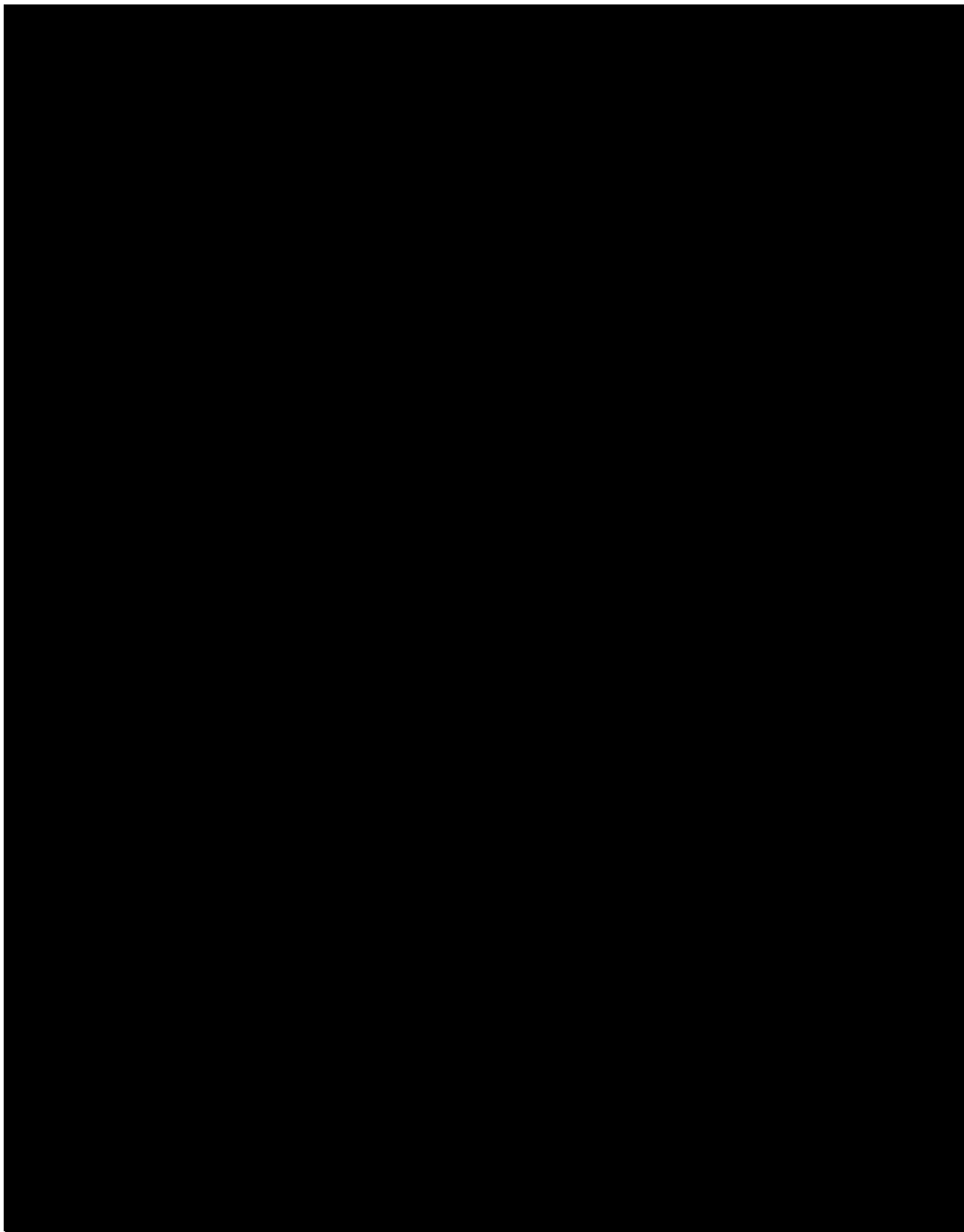
Appendix O

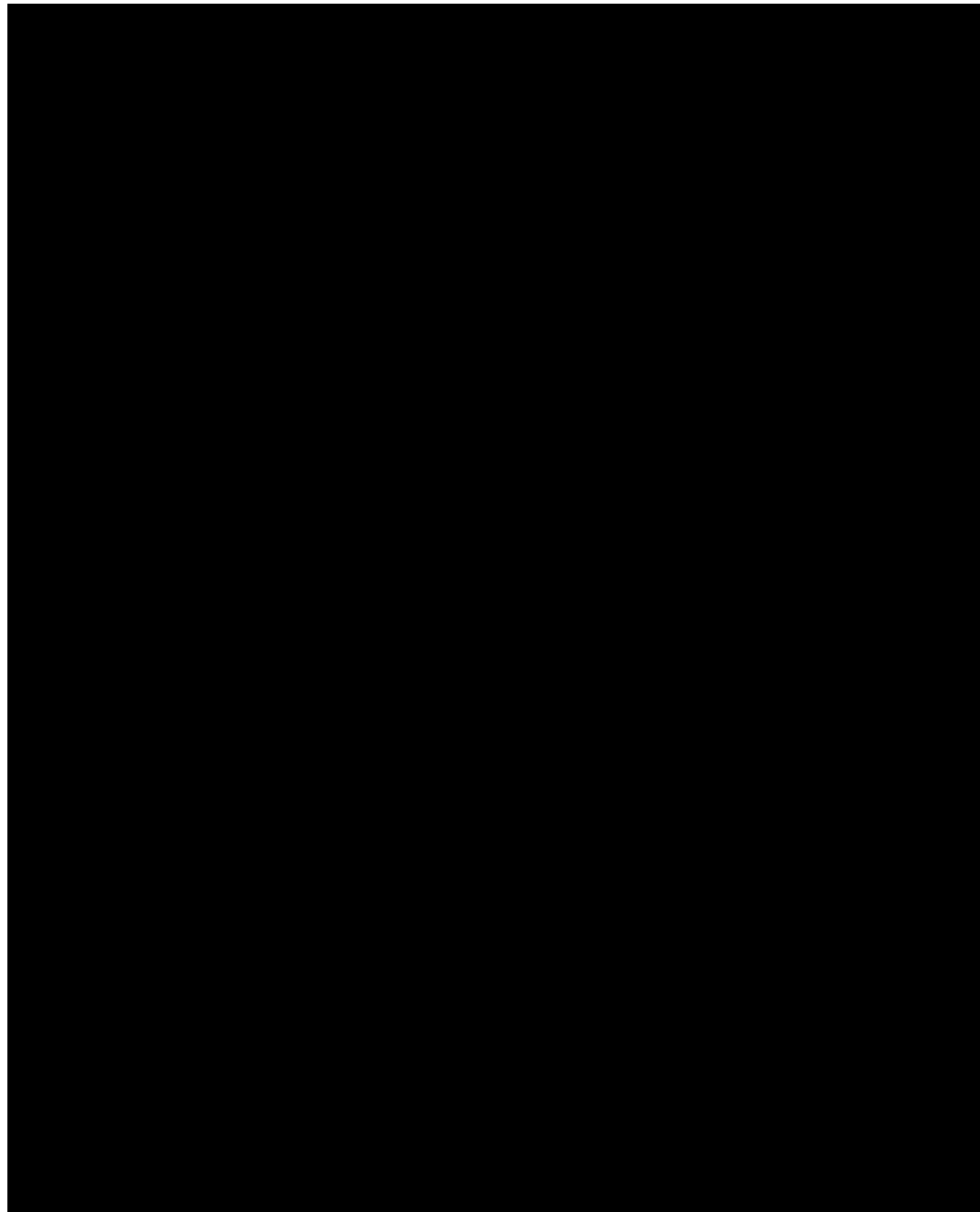
Clause by Clause

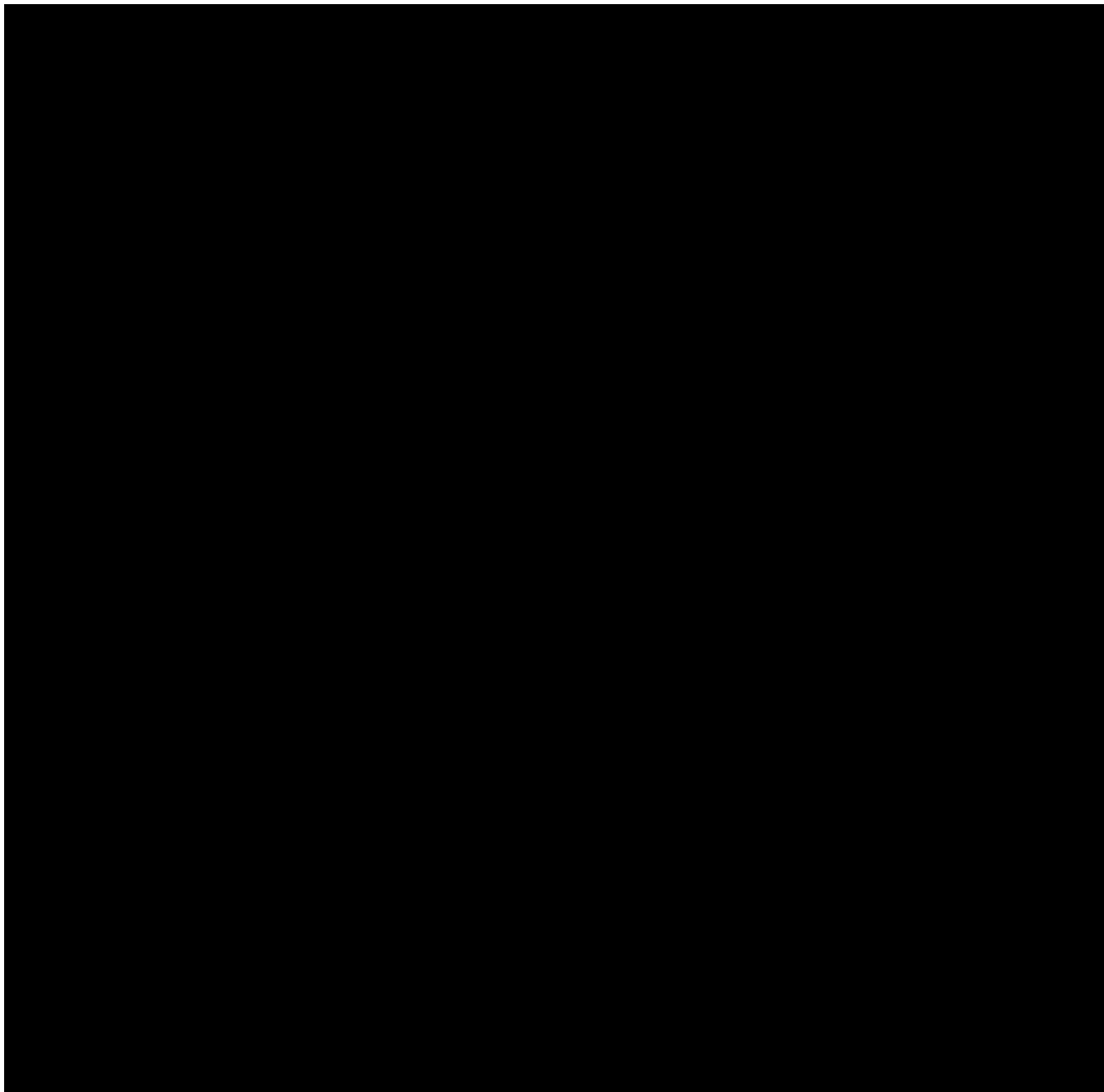
[illegible]

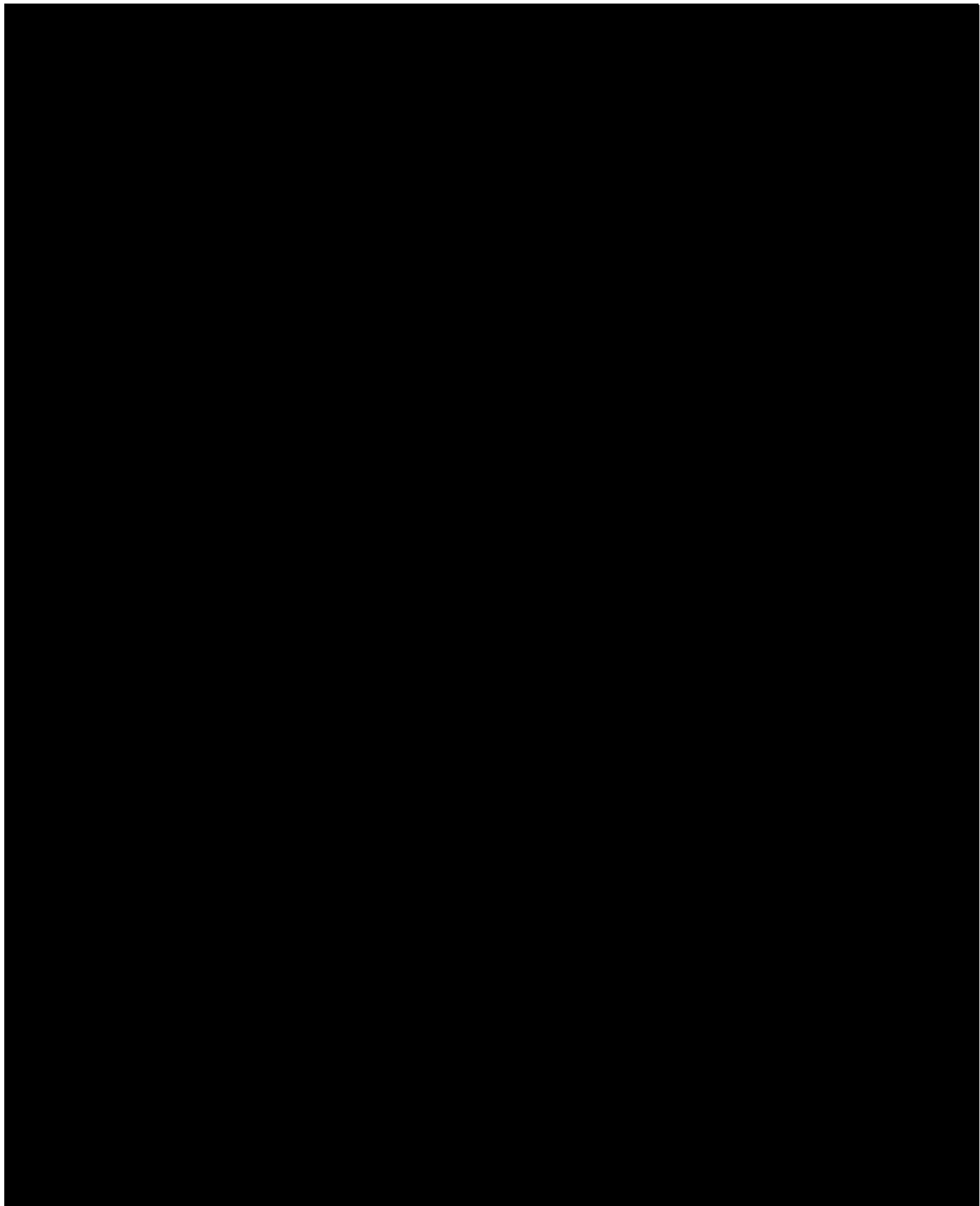


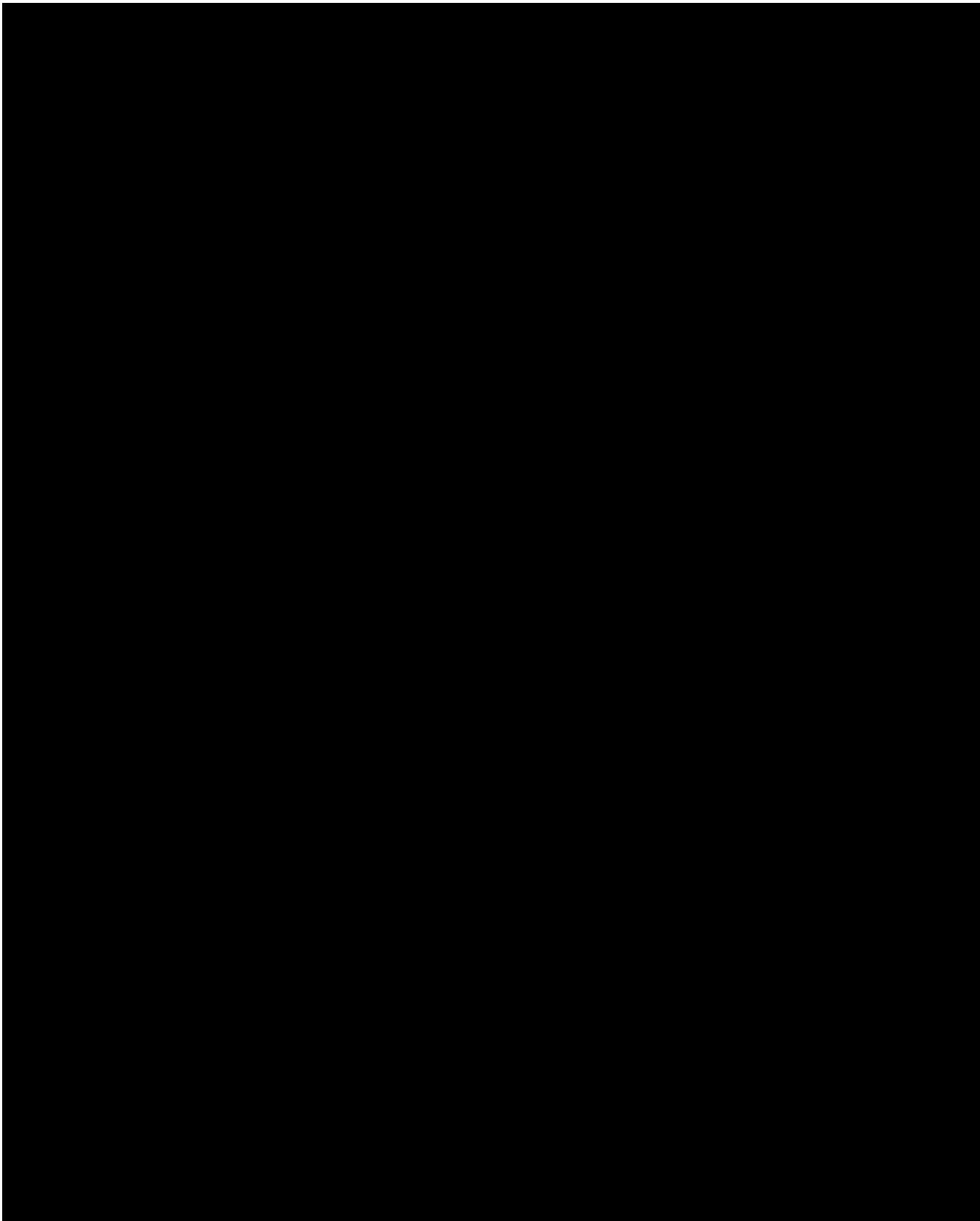


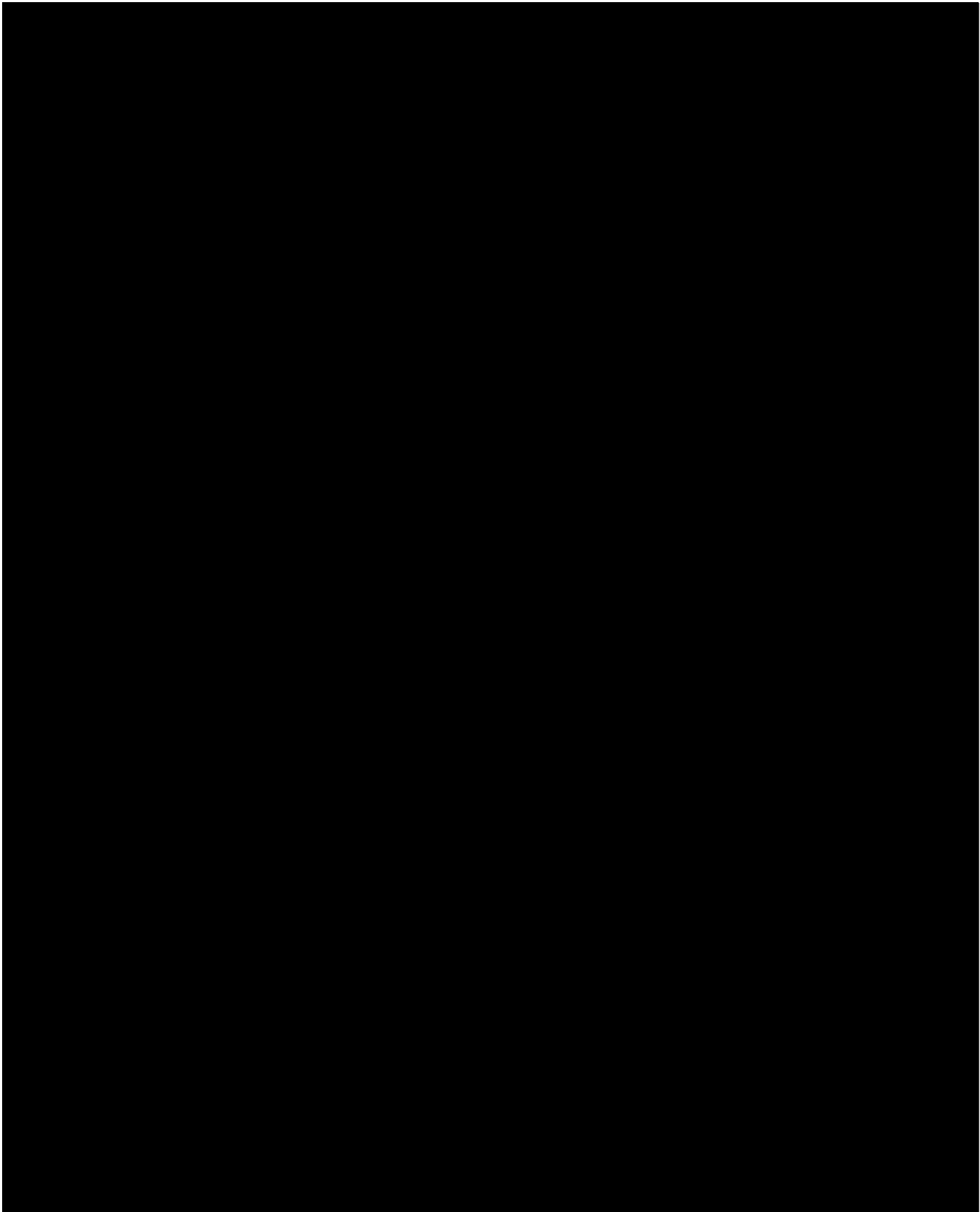


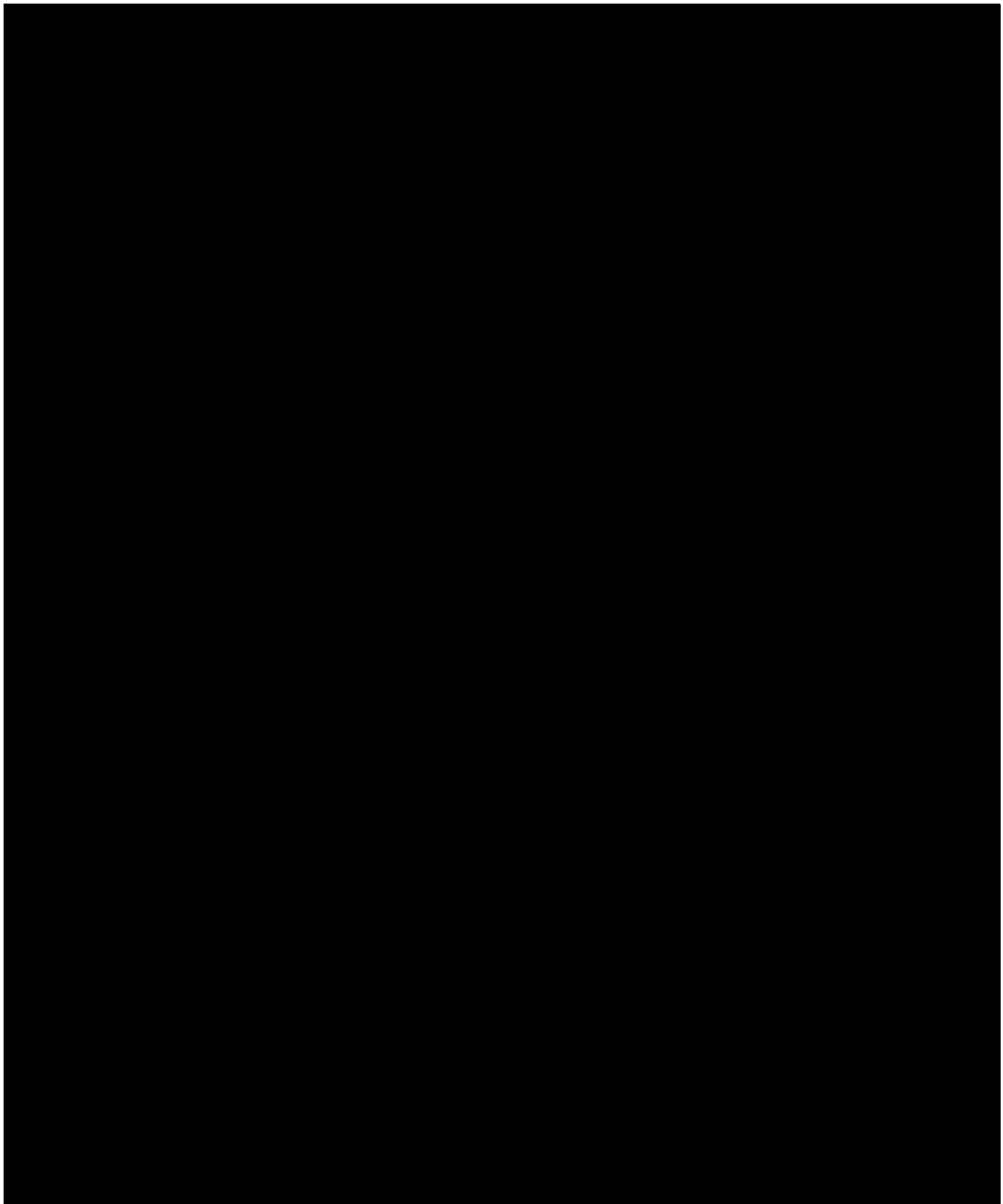


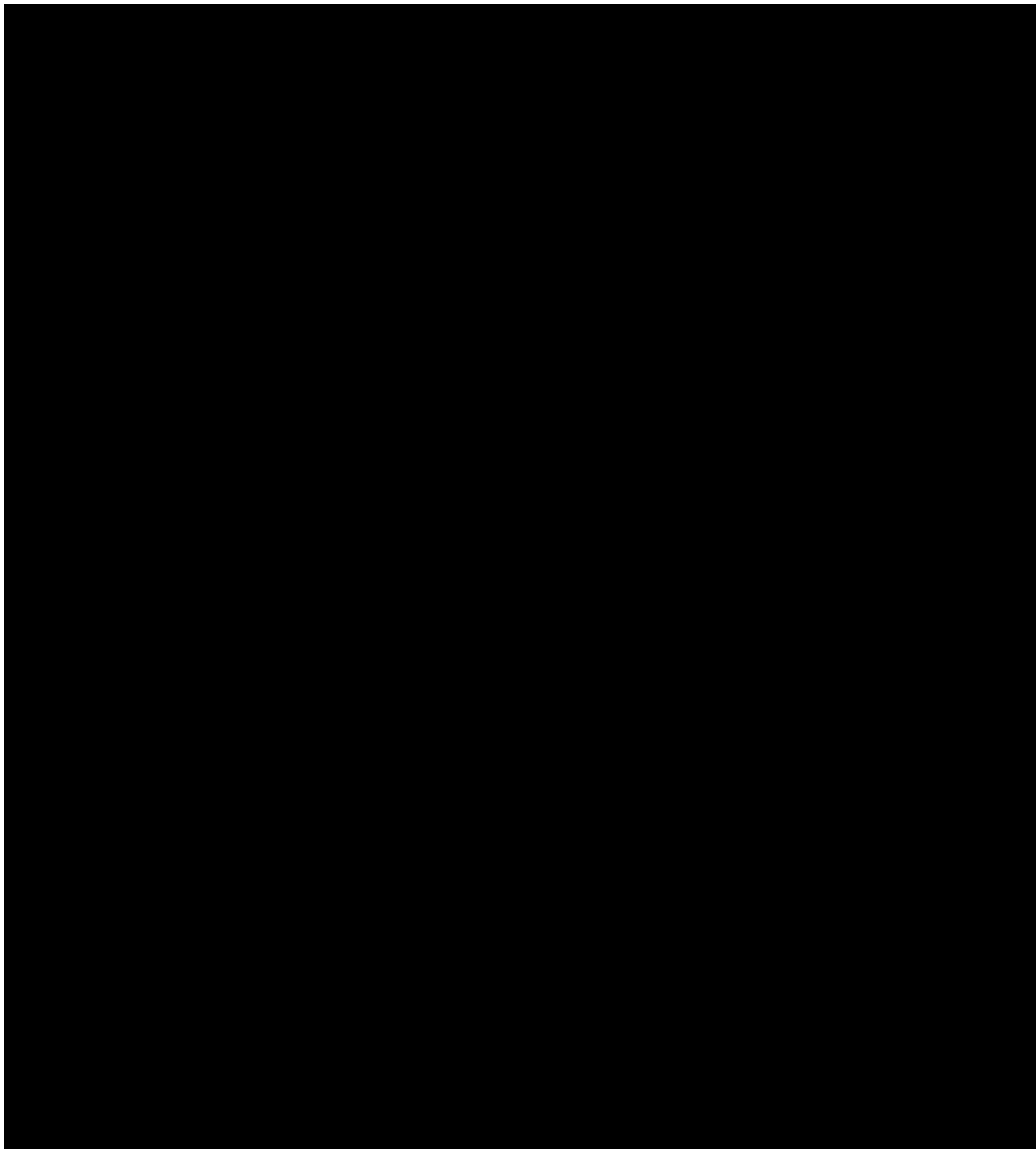


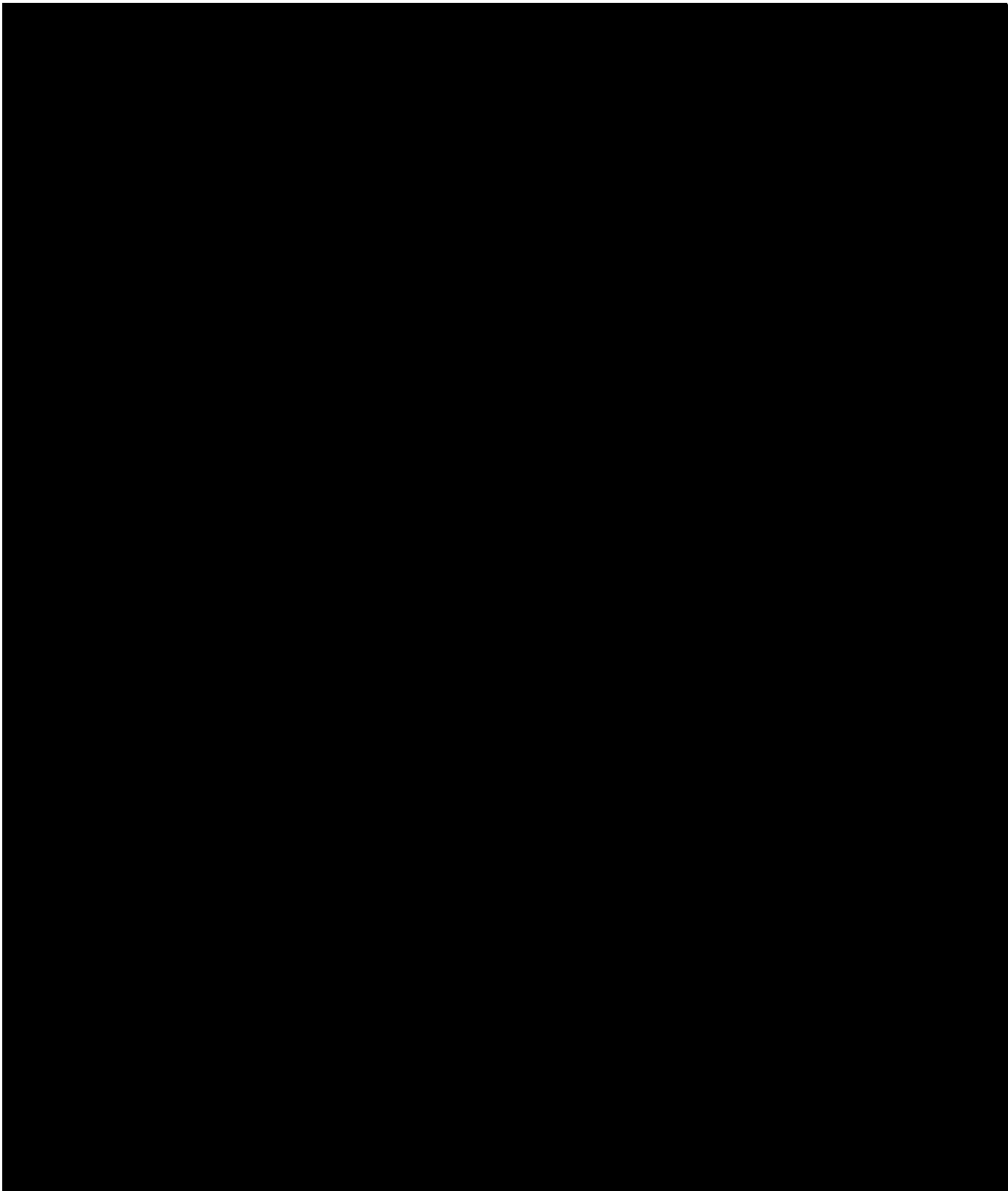


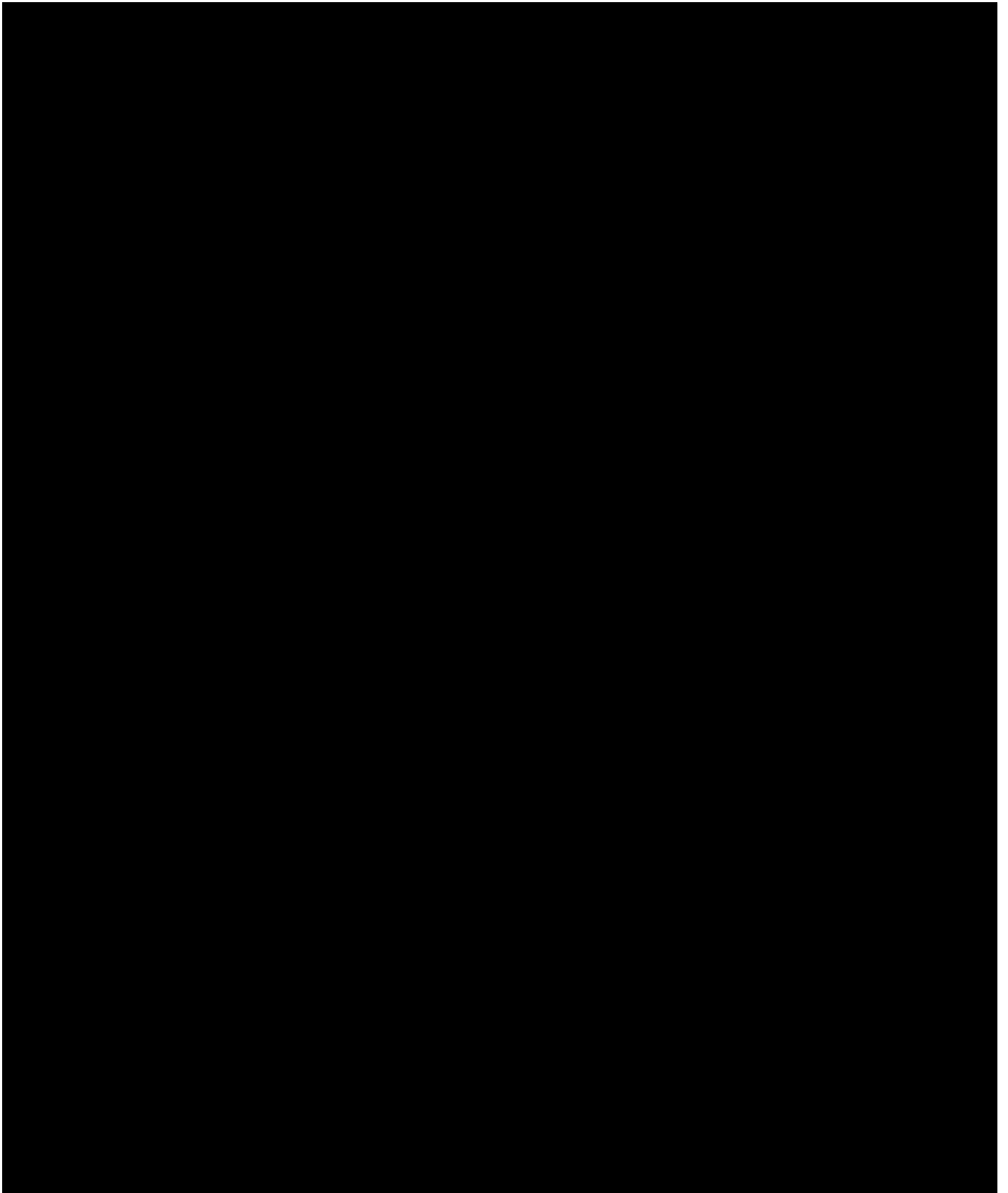


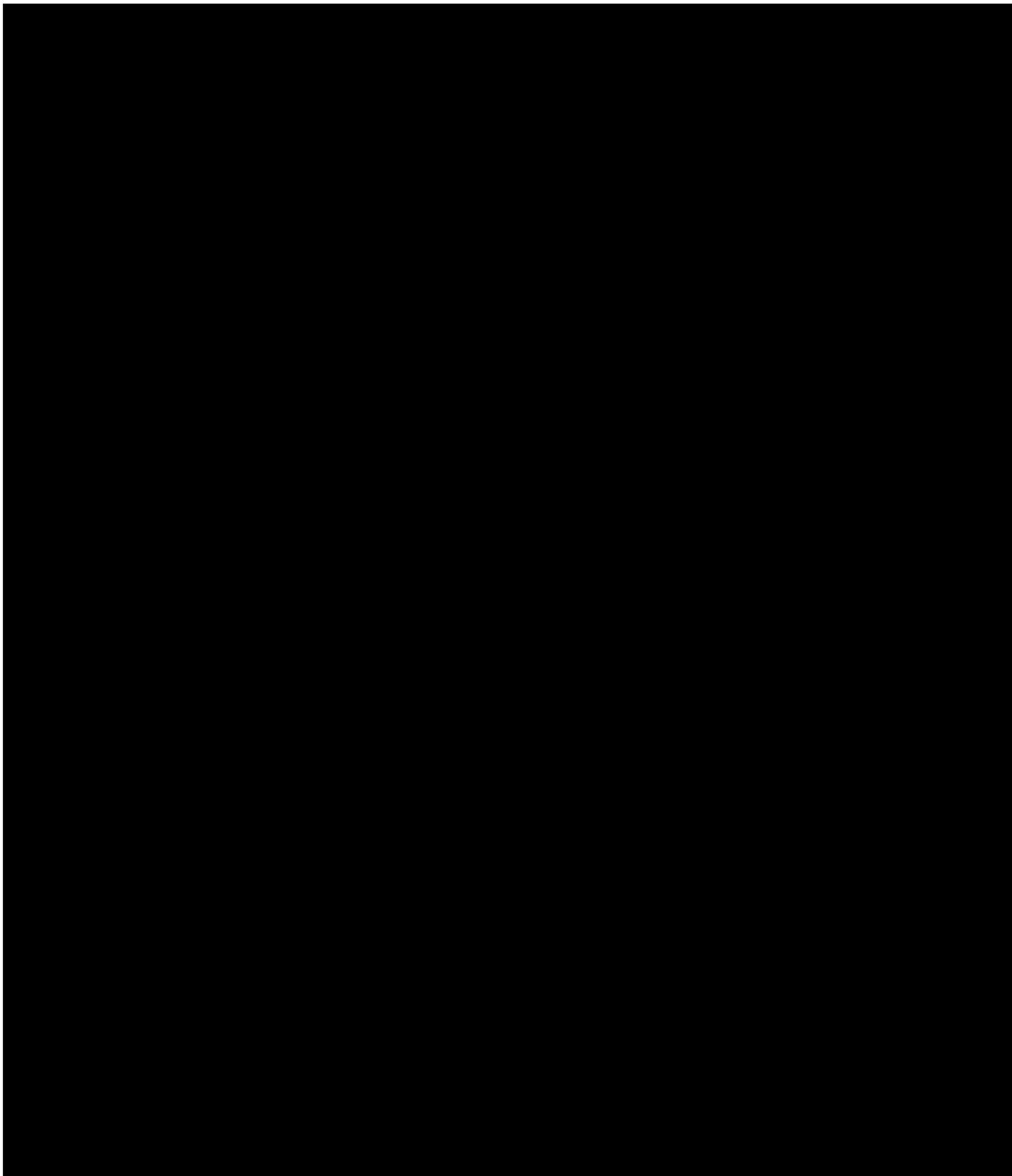


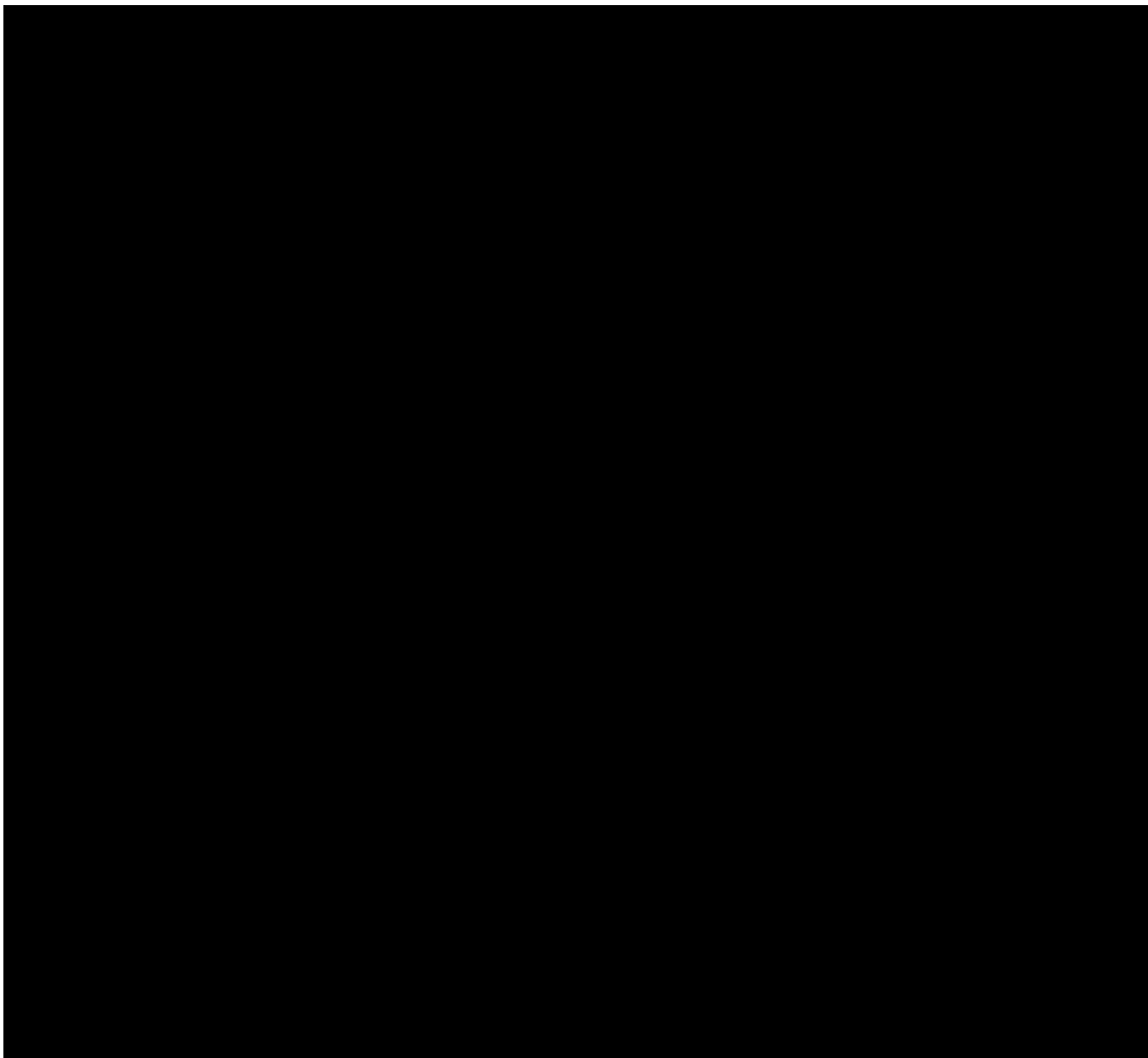


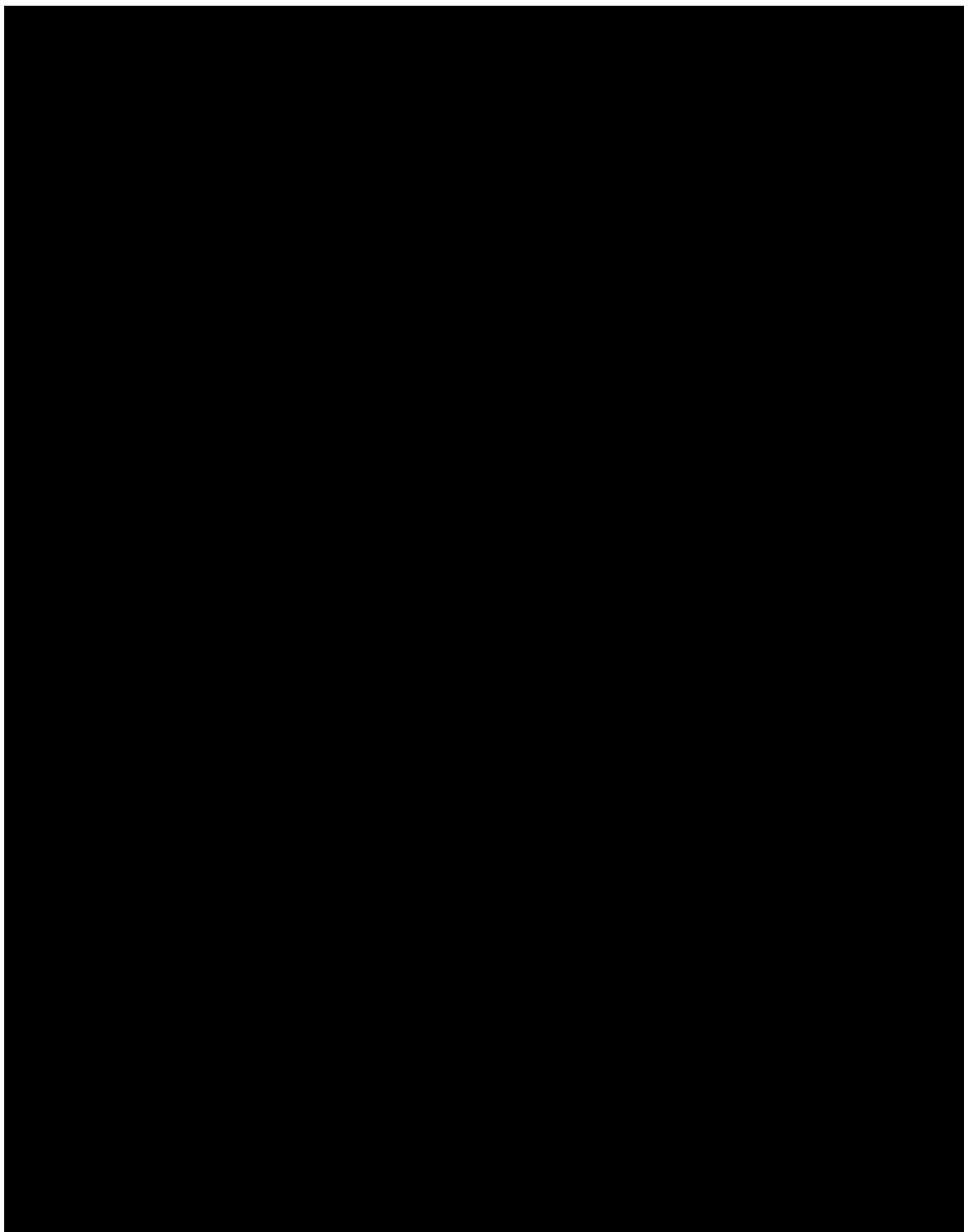


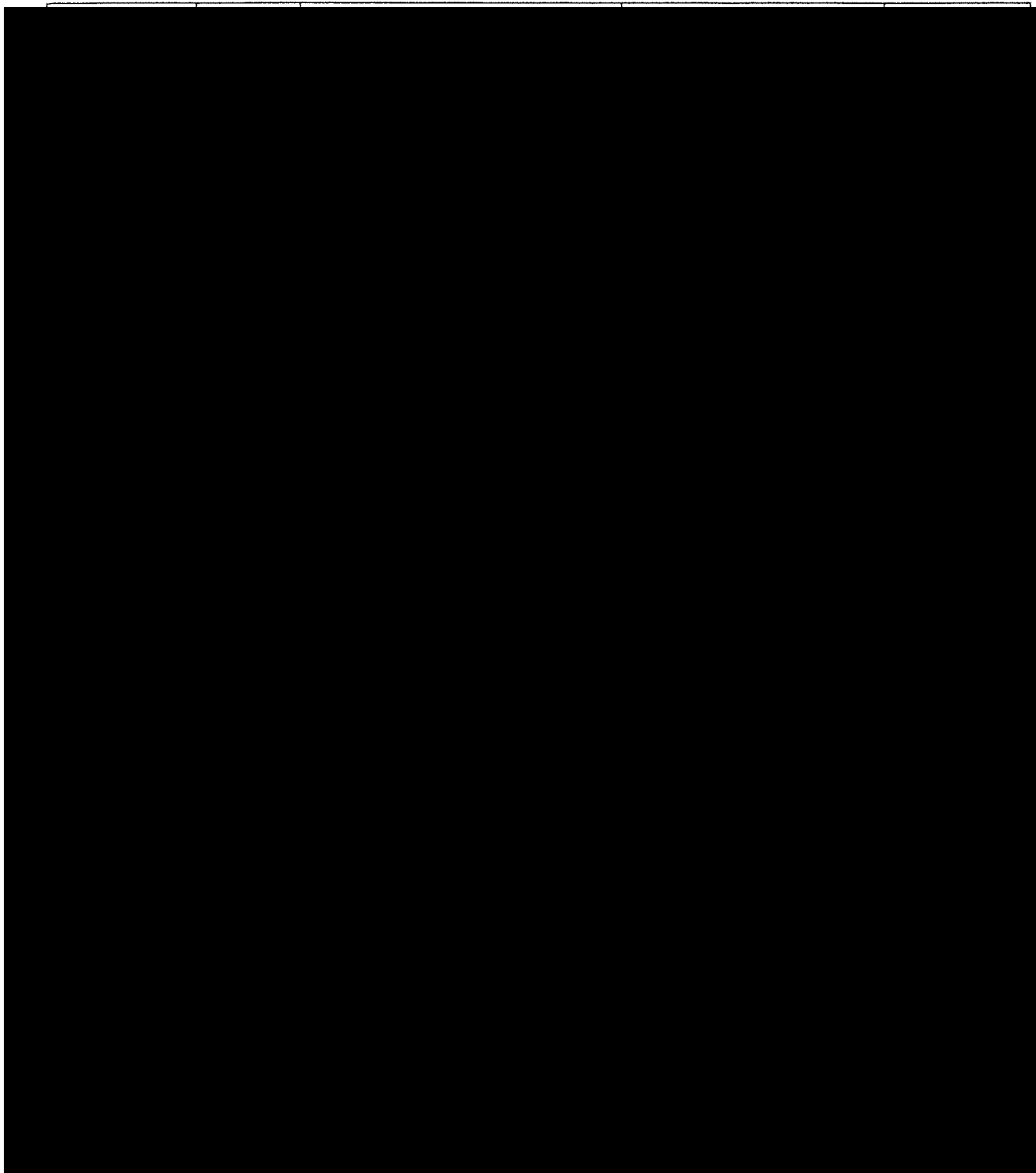














CONTRACTOR SAFETY REQUIREMENTS

September 22, 2008

Table of Contents

1. **Purpose**
2. **Scope and Responsibilities**
3. **Safety Administration**
 - Pre-Bid Meeting
 - Project Health & Safety Plan
 - Post-Award Contractor Safety Orientation
4. **Procedures**
 - A. Prohibited Conduct
 - B. General Rules
 - C. Incident Reporting
 - D. Asbestos Containing Materials
 - E. Compressed Air/Air Tools
 - F. Confined and Enclosed Spaces
 - G. Cranes
 - H. Drugs and Alcohol
 - I. Electrical Safety
 - J. Excavations
 - K. Fire Regulations
 - L. Hazard Communication
 - M. PCB Fluids (Polychlorinated Biphenyl Fluids)
 - N. Hazardous Waste
 - O. Housekeeping
 - P. Ladders and Scaffolding
 - Q. Lead
 - R. Medical Services
 - S. Motor Vehicles
 - T. Overhead Work
 - U. Personal Safety Equipment
 - V. Radiation
 - W. Tools
 - X. Water Safety
 - Y. Work Area Protection (Flagging)

5. Specific Requirements for Electric and Gas Work

Electric Power Generation, Transmission and Distribution Work

Helicopter Regulations

Gas Distribution Operations and Personal Protective
Equipment in Potentially Hazardous Atmospheres

6. Contractor's Sign-Off Sheet

7. Personal Protective Equipment Matrix

CONTRACTOR SAFETY REQUIREMENTS FOR SERVICES PROVIDED TO IBERDROLA USA MANAGEMENT CORPORATION AFFILIATE COMPANIES

August 13, 2008

1. PURPOSE

The purpose of this document is to advise Contractors providing services to Iberdrola USA Management Corporation affiliate companies ("Affiliates") of their responsibility to plan and perform their work in conformance with all applicable federal, state, and local laws, rules, regulations and ordinances of any agency having jurisdiction on the premises. These requirements apply to construction type projects where Affiliate employees are not working at the same site, and to Contractors who perform independent work related to electric transmission and distribution operations, and gas operations. Commitment to safe work practices is important at all Affiliate job sites; thus, evidence concerning Contractor safety performance and past safety history are factors that influence contract award decisions.

2. SCOPE AND RESPONSIBILITIES

This document shall be provided to Contractors to aid in the communication of hazards and minimum safety requirements, and to establish Affiliate expectations regarding safe work behavior while on company property. All Contractors must follow the requirements in this document, as well as their own company safety rules, policies and procedures. In the case of conflicting requirements, the most stringent shall prevail.

Each Contractor shall have a current written safety program and employee safety rules that comply with all regulatory requirements. In addition, each Contractor employee shall be familiar with the safety requirements in this document, and is expected to abide by them. All Contractors and Subcontractor employees must be properly equipped and trained.

Contractors shall communicate the required safety rules and regulations to their employees in a documented tailboard meeting prior to the start of the job. The form given in Attachment A may be used for this purpose. Contractors are responsible for interpreting these rules for non-English speaking and reading-impaired employees. Contractors are responsible for informing all Subcontractors of the safety rules and regulations set forth here and in the contract terms and conditions.

Affiliate Project Monitors shall facilitate Contractor compliance with safety requirements by including this document into contract specifications. All questions pertaining to this document shall be directed to the Affiliate Project Monitor or an Affiliate Health and Safety Representative. Neither the Affiliate Project Monitor nor Health and Safety Representatives shall exercise general supervisory authority over contractor worksites.

In particular, the Company shall not conduct worksite safety inspections, identify safety and health hazards, or correct deficiencies and violations. Moreover, the Company shall not provide personal protective equipment to contractor employees, perform employee exposure monitoring, or provide advice concerning safe work practices. Rather, the Contractor is accountable for all aspects of worker protection, as well as for preventing, detecting and promptly correcting all safety and health deficiencies associated with activities covered by the contract scope of work.

3. SAFETY ADMINISTRATION

Pre-Bid Meeting

For certain projects where specific safety issues exist or known site conditions require special precautions, a pre-bid meeting may be held. The purpose of the meeting is to emphasize the key safety requirements that apply to the project, and offer the opportunity for bidders to ask questions regarding job site conditions and worker protection issues. When necessary, an Affiliate Health and Safety Representative will participate to address safety-related issues such as known site hazards and anticipated personal protective equipment (PPE) requirements. Where applicable, announcement of a pre-bid meeting will be issued with the contract Request for Proposal.

Prospective Contractors will be informed that past safety performance is an evaluation factor that may determine contract award and/or disqualification of bidders.

Project Health & Safety Plan

Contractors performing high-hazard work may be required to prepare and submit a Project Health & Safety Plan (e.g., as required under 29 CFR 1910.120 and 29 CFR 1926.65). Projects requiring a Plan will be identified at the pre-bid stage of the contracting process. The Plan must address topics such as:

1. Scope of work and planned activities
2. Potential health and safety hazards
3. Individual job functions and responsibilities
4. Personal protective equipment and hazard mitigation strategies
5. Emergency equipment and incident response procedures
6. Exposure monitoring and control
7. Training and medical surveillance requirements
8. Standard operating procedures

Depending on the nature of the project, the Contractor may be required to have their Plan endorsed by a Certified Industrial Hygienist (CIH), Certified Safety Professional (CSP), and/or a licensed Professional Engineer (P.E.).

Post-Award Contractor Safety Orientation

For certain projects, a pre-construction conference may be required to discuss and agree upon safety procedures and controls at the job site. Contractor management

representatives, key Contractor employees (i.e., designated on-site “Competent Person”), Affiliate Project Monitors, and Affiliate Health and Safety Representatives shall typically participate. The topics for discussion include:

1. Job site housekeeping practices
2. Storage of materials and tools
3. Restricted areas and evacuation plans
4. Safety inspection and exposure monitoring plans
5. Procedures for documented employee safety meetings and job briefs
6. Subcontractor responsibilities
7. Hazardous chemicals and spill response procedures
8. Certification of Contractor employee qualifications
9. Site security and public protection
10. Emergency notification call lists and procedures

The orientation session is not intended to provide Contractor employees with training to meet regulatory compliance requirements.

4. PROCEDURES

A. Prohibited Conduct

Violation of the following conduct rules shall result in immediate dismissal of an employee from the site by the Contractor.

1. The possession or drinking of alcohol on any company property, including parking lots.
2. The suspected use of any substances which alter mental or physical capacity, including but not limited to non-prescription drugs, prescription drugs not prescribed to the user, narcotics, marijuana or other “controlled substance” or “controlled dangerous substance.”
3. Possession of firearms, ammunition, explosives or other weapons on company property/private vehicles
4. Engaging in fighting or horseplay
5. Operating switches, valves, or push buttons unless authorized

B. General Rules

The Contractor shall ensure that all personnel comply with the following rules, regardless of the nature of their job.

1. Contractor employees shall not enter any building or area where their work does not require their presence.
2. The Contractor shall maintain current safety warning signs/devices, barricades, handrails, and guardrails, and erect new ones if the hazard changes. The contractor shall also remove signs from the work site when there is no longer a hazard present.
3. Contractor employees shall not use emergency exits other than for

- emergencies, or block emergency exits.
4. The Contractor shall have a program to provide for frequent and regular inspections of the job site, materials, and equipment by designated competent persons.
 5. The Contractor shall instruct each employee in the recognition and avoidance of unsafe conditions and in the regulations applicable to his/her work environment to control or eliminate any hazards or other exposure to illness or injury.
 6. The Contractor shall permit only those employees qualified by training or experience to operate equipment and machinery.
 7. Contractor employees shall not work on equipment or facilities that are not included in the contract scope of work, or where specific permits/clearances may be required prior to performing a task.

C. Incident Reporting

1. After notifying emergency agencies or calling 911, as appropriate, the Affiliate Project Monitor shall be notified immediately, and in writing, of any accidents involving personal injury requiring medical treatment, or property damage. The Contractor is responsible for notifying OSHA, when applicable. Appropriate written reports shall be completed within one working day.
2. All work must be done in a manner which minimizes the possibility of a spill of hazardous or non-hazardous substance to the environment. Placement of fuel, oils, chemicals and sanitary facilities, or fueling, greasing, or oiling of equipment shall be in a location which avoids, to the degree possible, water sources, wells, or other ecologically sensitive sites. Any spill must be immediately reported in writing to the Affiliate Project Monitor and the appropriate authorities. Contractor is responsible for all associated clean-up costs, penalties, etc.

D. Asbestos Containing Materials (ref: 29 CFR 1926.1101 and 1910.1001)

Contractors shall not disturb known or suspected asbestos-containing materials. When these materials are encountered and could potentially be disturbed by the work being performed, work should immediately be stopped and confirmatory analyses performed as necessary. The Contractor shall immediately notify the Affiliate Project Monitor in writing. Examples of presumed asbestos-containing materials include, but are not limited to, the following:

- Cement wallboard and exterior sheeting
- Thermal insulation and high temperature gaskets
- Ceiling tiles and lay-in panels
- Acoustical and decorative plaster
- Vinyl or asphalt floor tile and sheeting, and mastic
- Electrical cloth, electrical panel partitions, underground conduit, and fabric-type wire insulation
- Roofing shingles, felt, base flashing, and caulking

- Boiler, breeching, duct, and pipe insulation
- Wallboard and spackling/taping/joint compounds

E. Compressed Air/Air tools (ref: 29 CFR 1926.302 and 1910.243)

1. The contractor will comply with the standards for compressed air equipment used in providing compressed air for performing operations such as cleaning, drilling, hoisting and chipping.
2. Pneumatic power tools shall be secured to the hose in a positive manner to prevent accidental disconnection.
3. Safety clips or retainers shall be securely installed and maintained on pneumatic impact tools to prevent attachments from accidentally being expelled.
4. The manufacture's safe operating pressure for all fittings shall not be exceeded.
5. All hoses exceeding ½ -inch inside diameter shall have a safety device at the source of supply or branch line to reduce pressure in case of failure.

F. Confined and Enclosed Spaces (ref: 29 CFR 1926.21; 1910.269(e) and 1910.146)

The Contractor is responsible for developing their own program and complying with all applicable confined-space and enclosed space work practices and standards. Contractor employees working in confined/enclosed space conditions must have demonstrated competency in proper work practices and rescue techniques (achieved by training and experience). The Contractor shall have a means of emergency rescue arranged prior to start of work and must check with the local fire department or agency expected to provide rescue assistance as to their availability prior to entering space.

G. Cranes (ref: 29 CFR 1926.550; 1910.179 and 1910.180)

The Contractor shall not use Affiliate cranes. Specific exceptions to this rule shall be written and made part of the contract. Qualified employees, with licenses when required, will operate cranes. If a license is required, the operator will have the license with them when operating subject cranes. Lift plans may be necessary before work begins. Documentation will be submitted to the Affiliate Project Monitor upon request. The Contractor must maintain a physical barrier around all equipment and machinery in the hoisting area. In areas exposed to vehicular traffic, the Contractor must conform with OSHA paragraph 1926.651(d) and also make appropriate arrangements with local authorities for traffic control/detour. All crane sites and equipment must be secured during off work hours to prevent unauthorized access.

H. Drugs and Alcohol (ref: 49 CFR 382; DOT Part 199)

1. Possession or use of controlled substances or alcohol is strictly prohibited on Affiliate premises or while working for the Company. Reporting to work on

Affiliate property under the influence of unauthorized drugs or alcohol is strictly prohibited; any person under the influence of unauthorized drugs or alcohol shall not be permitted on the premises of an Affiliate project.

2. When applicable, Contractors must comply with U.S. Department of Transportation Part 199 regulations. The Contractor's written program and documented random sampling program for Drugs and/or Alcohol shall be made available upon request.

I. Electrical Safety (ref: 29 CFR 1926.402-408, 416, 417; 29 CFR 1926, subpart V, and 1910.269)

1. Only authorized and qualified personnel shall work on installation and maintenance of electrical equipment.
2. All equipment used, including extension cords, shall have required approvals and be free from known defects.
3. Electrical equipment or tools (unless specially designed) shall not be operated in wet areas, or where potentially flammable dusts, vapors, or liquids are present.
4. When working on Affiliate-owned equipment and facilities, the Contractor will utilize a lockout/tagout procedure or recognized isolation/tagging procedure, as specified by the Affiliate. GFCI's (ground fault circuit interrupters) shall be used for all electrical tools and equipment when used outdoors or in wet locations.
5. If a circuit breaker or other protective device operates ("trips") to open a circuit, a qualified electrician must determine the cause of the problem before the device is reset.
6. Equipment, boxes, switchgear, cabinets, or electrical rooms with exposed energized parts shall be attended or secured at all times.
7. All non-qualified Contractor employees and equipment shall stay a minimum of 10 feet away from overhead, energized lines. Non-qualified Contractor employees are not permitted to enter an energized substation unless qualified personnel accompany them.
8. Mobile radio antennas shall be lowered prior to taking any vehicles inside a substation.
9. No metal measuring tapes or tapes containing a metal wrap shall be used near energized circuits, equipment, poles or substation structures.
10. Metal tools utilizing cable slings, winch cable, chains, loose sections and ends of conductors, or other similar objects, shall be kept under control by the worker to prevent contact with energized conductors or equipment and the worker's body.

J. Excavations (ref: 29 CFR 1926.650-652, 1926.800, and 1926.956)

The general requirements of the OSHA Excavation Standard , 29 CFR 1926 Subpart P, including the provision for a competent person, shall be understood and followed by all

Contractor employees. All excavations that workers may enter that are 5 feet or more in depth, or a depth where there is danger of cave-in shall be protected by a shoring or shielding system, or by an appropriate benching or sloping system. Materials shall not be stored closer than two (2) feet from the edge of a trench or excavation, and mobile equipment shall not be operated in close proximity to the edge unless extra precautions are taken to shore or slope the walls back to a stable slope. Additional requirements include but are not limited to the following items:

- Contractor must submit excavation plans to the Affiliate Project Monitor prior to any excavation work.
- Provide adequate barriers/barricades around excavations and machinery, including special considerations for securing excavations left overnight.
- In areas exposed to vehicular traffic, the Contractor must conform with OSHA paragraph 1926.651(d) and also make appropriate arrangements with local authorities for traffic control/detour.
- Perform air monitoring where there is a potential for a hazardous atmosphere.
- Make advance notification to Underground Facilities Protective Organization (e.g. Dig Safe).
- Provide adequate access and egress, and signage necessary to direct vehicular and pedestrian traffic safely around the work area.
- Perform routine inspections of all excavation equipment, including lights and safety features such as back-up warning devices.
- Hand dig when within two feet of any underground facility until the facility is exposed; then hand dig within four inches of the underground facility
- Notify Affiliate Project Monitor to obtain environmental assistance if it becomes necessary to perform dewatering.
- The Contractor shall promptly notify appropriate utilities of any damage done, prior to backfilling the trench.

K. Fire Regulations (ref: 29 CFR 1926.150, 152, 1910.38, 1910.39, 1910.157)

1. Contractors shall provide fire extinguishers, sealed, fire service ready, inspected and in good working order and properly maintained at all times when live gas work is being done. At least one 20-pound dry chemical fire extinguisher shall be on the ground near the edge of the excavation.
2. Contractors shall provide a trained fire watch as dictated by the job hazard assessment.
3. When required, hot work permits shall be obtained from the Affiliate Project Monitor for such activities as welding, cutting, burning, anything that causes a spark, uses an open flame, or involves temperatures high enough to ignite combustible materials.
4. All acetylene and oxygen cylinders shall be stored and used in accordance with OSHA regulations (ref: 29 CFR 1926.350), and transported per DOT specifications. Flashback arresters shall be installed at the welding tip and at the regulator.

5. Open flames, sparks or smoking shall be prohibited in areas so marked or designated, and where a recognized combustible/flammable hazard exists.
6. Fire detection and/or suppression systems shall not be disabled or blocked without notifying the Affiliate Project Monitor and obtaining his/her consent.
7. Flammable/combustible material shall be stored in approved containers and locations. Quantities in excess of one day's use shall be reported to the Affiliate Project Monitor.

L. Hazard Communication (ref: 29 CFR 1926.59 and 1910.1200)

1. The Contractor must have a written program that complies with OSHA's Hazard Communication standard.
2. Before commencing work, all affected Contractor employees must be trained in accordance with the requirements of the standard.
3. Contractors shall provide to the Affiliate Project Monitor a list of chemicals and Material Safety Data Sheets (MSDS) for each chemical that they will bring on Affiliate property or use on an Affiliate project.
4. Contractor chemical containers shall be properly labeled and stored.
5. All unused chemicals, which Contractors bring onto Affiliate property or use for a project, shall be the responsibility of the Contractor to properly dispose of and/or remove.
6. The Affiliate Project Monitor shall make Contractors aware of the Affiliate's Hazard Communication Program, notify them of any chemicals that they may be exposed to while working on Affiliate property, and provide access to the applicable MSDS.
7. The use of any hazardous material by a Contractor in occupied buildings must be approved by the Affiliate Project Monitor.

M. PCB fluids (Polychlorinated Biphenyl Fluids) (40 CFR 761)

PCB fluids were formerly used as an electrical insulating fluid (transformers, regulators, capacitors, PTs, CTs), and also can occasionally be found in the gas distribution system in gas pipe, distribution equipment, (filters, separators, drips, meters, and regulators) and gas condensate/pipeline liquids. All liquids recovered from gas pipelines must be assumed to contain PCBs until proven otherwise by approved testing methods. When these materials are encountered and could potentially be disturbed by the work being performed, work shall immediately be stopped. The Contractor shall immediately notify the Affiliate Project Monitor in writing.

N. Hazardous Waste (ref: 40 CFR 260)

Requirements of the U.S. DOT and U.S. EPA must be observed for all aspects of hazardous waste handling, storage and transportation. Contractor is responsible for the

removal and proper disposal of all hazardous waste they generate, including completion of documentation such as waste profiles, waste analytical samples, and hazardous waste manifests. As a minimum, the Contractor shall perform proper labeling, adequate secondary containment, segregation of incompatible materials, and routine inspection of storage areas as required by all U.S. EPA, state and local regulations. In addition, all hazardous waste containers must be properly constructed and in sound condition, and shall be kept securely closed. Contractor employees must be properly trained in hazardous waste procedures in accordance with regulatory requirements. The Contractor shall notify the Affiliate Project Monitor in writing before making any arrangements for shipping and disposal of hazardous waste.

O. Housekeeping (ref: 29 CFR 1926.25)

1. Good housekeeping practices shall be strictly adhered to daily. The work site shall be kept clean and orderly.
2. Trash shall be promptly removed from the work site and from the customer's property.
3. Boards with protruding nails shall not be left lying around. All nails shall be withdrawn or hammered down.
4. Contractors shall not block means of access or egress, or safety equipment.

P. Ladders and Scaffolding (ref: 29 CFR 1926.451, 1050-1053, 1060, 1910.27)

1. Contractors shall not use Affiliate ladders without permission from the Affiliate Project Monitor, or where an exception is included in contract documents.
2. Contractors are required to furnish their own ladders and equipment free of defects.
3. All straight and extension ladders shall be properly maintained and equipped with approved safety feet.
4. No work shall be performed until the ladder is properly secured.
5. Barricades should be placed to direct pedestrian traffic away from ladders.
6. Ladders must be inspected for defects on a regular basis, and immediately removed from service when deemed unsafe
7. The areas at the top and bottom of a ladder shall be kept clear of debris and equipment.
8. Ladders made of conductive materials shall not be used while working in proximity to energized electrical facilities.
9. All ladders shall be removed at the end of the work shift to prevent unauthorized use, or access to elevated surfaces.
10. All scaffolding erection and use shall be in compliance with OSHA standards. A licensed Professional Engineer's approval of scaffolding plan(s) shall be submitted as required.

Q. Lead (ref: 29 CFR 1926.62 and 1910.1025)

Contractors shall not disturb known or suspected lead-based paint and other lead-containing materials. When these materials are encountered and could potentially be disturbed by the work being performed, work shall be stopped immediately. The Contractor shall immediately notify the Affiliate Project Monitor in writing.

R. Medical Services (ref: 29 CFR 1926.50)

1. When a medical facility is not reasonably accessible (i.e., within 15 minutes) for the treatment of injured employees, personnel trained to render first aid and CPR shall be available at the worksite. The personnel designated to provide CPR and first aid must have current certifications and must carry evidence of their training while on site.
2. First aid supplies approved by a consulting physician shall be readily available at the worksite.

S. Motor Vehicles (ref: 29 CFR 1926.600-02)

1. Contractors shall not use Affiliate vehicles without permission. Contractors shall transport employees in a safe manner (e.g., riding in the back of a pick-up and in places other than the operator's seat, (i.e., a backhoe bucket or fender) is prohibited).
2. Contractor employees shall possess the necessary license classification for vehicle(s) being driven.

T. Overhead Work (ref: 29 CFR 1926.500-503)

1. Personnel shall be protected from falling tools, equipment and material.
2. All girders, beams and overhead surfaces shall be kept free of loose material.

U. Personal Safety Equipment (ref: 29 CFR 1926.28, 52, 95, 100-103, 353, 500-503; 1910 Subpart I)

1. Eye and Face Protection - Approved and appropriate eye and/or face protection shall be worn at the worksite. Personnel involved in welding operations shall wear eye protection with filter lenses or plates of the proper shade number. The eye and face protection must meet the requirements of ANSI Z87.1-2003.
2. Head Protection – OSHA approved hard hats meeting the requirements of ANSI Z89.1-2003 shall be worn at work sites where there is potential for head injury. Bump caps, metal hard hats, and metal hard caps are prohibited.
3. Clothing – Contractors employees shall be properly clothed at all times. Appropriate flame retardant clothing is required while working on energized gas pipelines, energized electrical equipment and whenever a flame hazard exists.
4. Gloves – Suitable gloves will be worn when there is a potential for hand injury.

5. Foot Protection – Safety shoes and boots that meet the guidelines of ANSI Z41-1991 must be worn whenever exposed to crushing hazards.
6. Hearing Protection – All personnel subjected to sound exceeding the OSHA permissible 90 decibel level shall have available and wear appropriate hearing protection. Hearing protection training and medical monitoring are required by OSHA for contractor employees working in areas exceeding the OSHA 85 decibel action level.
7. Respirators - The contractor shall provide respirators based on the hazard encountered. Contractor respirator use will be in compliance with OSHA requirements.
8. Fall protection - Whenever work site conditions involve a potential for a fall hazard of 4 feet or more, the contractor shall use appropriate fall protection meeting the requirements of OSHA 29 CFR Subpart M – Fall Protection.

V. Radiation (ref: 29 CFR 1926.53, 1910.96, 1910.97, 1910.1096, 10 CFR 19,20,32-36,39)

1. The Contractor may utilize equipment containing an ionizing radiation source only when appropriately licensed to do so. A copy of their license must be available on-site.
2. The Affiliate Project Monitor will inform the Contractor when work is necessary near an Affiliate ionizing radiation source.
3. If work is required in the proximity of an ionizing radiation source, the Contractor shall comply with all applicable regulations.

W. Tools (ref: 29 CFR 1926.300-305, 1910.242)

1. Contractors shall not use Affiliate tools without permission.
2. Tools shall be kept defect free and if defects are found, immediately taken out of service.
3. Tools shall be maintained as per manufacturer's specifications and governing regulations.
4. Tools shall not be retrofitted or modified.

X. Water Safety (ref: 29 CFR 1926.106)

When Contractors work over or near water and where the danger of drowning exists, the contractor must comply with all provisions of OSHA (i.e., training, Coast Guard approved life jackets, ring buoys, skiffs, fall protection etc.).

Y. Work Zone Protection (1926.201)

1. Contractors shall use adequate work area protection. All work area protection shall be in accordance with the Federal/State Manual of Uniform Traffic Control Devices.
2. All contractors working in the road right-of-way:
 - a. Shall wear ANSI 107 Class 2 or 3 compliant clothing.
 - b. Shall wear ANSI 107 Class 2 or 3 compliant traffic vests for flagging and night work.
 - c. Must comply with the provisions of any state permits issued to the Affiliate.

5. SPECIFIC REQUIREMENTS FOR ELECTRIC AND GAS WORK

Electric Power Generation, Transmission and Distribution Work (ref: 29 CFR 1910.269)

Contractor shall comply with all OSHA requirements for operation and maintenance of electric power generation, transmission and distribution lines and equipment including:

- Job briefing requirements
- Line clearance tree- trimming operations including brush chippers and chain saw use.
- Specific training including skills and techniques necessary to perform this work
- Hazardous energy control (lockout/ tag out) procedures
- Enclosed spaces
- Fall protection
- Tools and equipment including live-line tools
- Working on or near exposed energized parts
- Minimum approach distance

- Grounding for the protection of employees
- Work involving overhead lines including installing and removing lines
- Substation work activities including entry and job briefings

Tree contractors working for Affiliates will be required to work in accordance with the latest American National Standard Institute (ANSI) safety requirements for tree care operations involving pruning, trimming, repairing, maintaining and removing trees and cutting brush.

Helicopter Regulations (ref: 29 CFR 1926.551, 1910.183)

Contracted helicopters shall comply with any applicable regulations of the Federal Aviation Administration.

- Briefing: Prior to each day's operation a briefing shall be conducted. This briefing shall set forth the plan of operation for the pilot and ground personnel.
- Personal protective equipment for employees shall consist of complete eye protection and hard hats secured by chinstraps.
- Loose fitting clothing likely to flap in the downwash, shall not be worn.
- Every practical precaution shall be taken to provide for the protection of the employees from flying objects in the rotor downwash. All loose material within 100 feet shall be secured or removed.
- No unauthorized person shall be allowed to approach within 50 feet of the helicopter when the rotor blades are turning.
- Whenever approaching or leaving a helicopter with blades rotating, all personnel shall remain in full view of the pilot and keep in a crouched position. Personnel shall avoid the area from the cockpit or cabin rearward unless authorized by the helicopter operator to work there.
- There shall be constant reliable communication between the pilot, and a designated person of the ground crew who acts as a signalman. This signalman shall be distinctly recognizable from other ground personnel.

Gas Distribution Operations and Personal Protective Equipment in Potentially Hazardous Atmospheres

All gas Contractors must comply with applicable OSHA requirements, as well as the requirements of the U.S. Department of Transportation (DOT), including drug and alcohol misuse testing. Worker protection is a key requirement on all gas projects. A copy of the Affiliate's procedures will be provided if the work involves encountering a potentially hazardous atmosphere requiring the use of personal protective equipment. This will include a copy of the Affiliate's task-specific Personal Protective Equipment Matrix. This procedure describes specific requirements for working in an atmosphere which may be hazardous due to the presence of natural gas or oxygen deficiency (asphyxiation hazard). This procedure is applicable to all phases of operation, maintenance and construction of the gas system.

6. CONTRACTOR'S SIGN-OFF SHEET

(AFFILIATE COMPANY NAME)

NOTE: The Contractor Safety Requirements shall be read and understood and the sign-off sheet completed before arrival on the job site or commencement of work.

[illegible]

7. PERSONAL PROTECTIVE EQUIPMENT MATRIX

(AFFILIATE COMPANY NAME)

Appendix N

Form of Parent Guarantee

GUARANTEE AGREEMENT

This GUARANTEE AGREEMENT (this “Guarantee”), dated as [REDACTED], is made and entered into by [REDACTED] with its principal office located at [REDACTED] (the “Guarantor”), in favor of Rochester Gas and Electric Corporation, its successors and assigns (the “Customer”). Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Project Contract.

RECITALS

WHEREAS, [REDACTED] (“Obligor”), a wholly-owned subsidiary of the Guarantor, has entered into a General Construction Agreement, dated as of even date herewith, with Customer for the [construction and other work relating the Station 124 Static VAR Compensator Project] (the “Project Contract”);

WHEREAS, in order to induce Customer to enter into the Project Contract, Obligor has asked Guarantor to provide this Guarantee to Customer; and

WHEREAS, Guarantor will directly or indirectly benefit from the Project Contract.

NOW THEREFORE, in consideration of the Customer agreeing to enter into the Project Contract and conduct business with Obligor as contemplated thereby, Guarantor hereby covenants and agrees as follows:

1. GUARANTEE. Subject to the provisions hereof, Guarantor hereby for itself, its successors and assigns, irrevocably and unconditionally guarantees to Customer the performance by Obligor of the obligations (of payment and performance), responsibilities, and undertakings to be carried out, performed or observed by Obligor (collectively, the “Obligations”) to the extent and under the terms and conditions and subject to the limitations set forth in the Project Contract, it being the intent that the Obligations of the Guarantor under this Guarantee shall not be any greater than the obligations of Obligor under the Project Contract.

This Guarantee shall constitute a continuing guarantee of payment and performance and not of collection. Guarantor shall have no right of subrogation with respect to any payments it makes under this Guarantee until all of the Obligations of Obligor to the Customer are satisfied in full.

Guarantor shall be required to pay the reasonable out-of-pocket attorneys’ fees and costs incurred by the Customer in the enforcement of this Guarantee.

2. DEMANDS AND NOTICE. If Obligor fails or refuses to perform or pay any Obligations, the Customer may make a demand upon Guarantor (hereinafter referred to as a “Demand”). A Demand shall be in writing and shall reasonably and briefly specify what Obligation Obligor has failed to satisfy in accordance with the Project Contract, and shall include specific statement that the Customer is calling upon Guarantor to pay or perform (as the case may be) under this Guarantee. A Demand satisfying the foregoing requirements shall be deemed sufficient notice to Guarantor that it must pay or perform (as the case may be) the Obligations. A single written Demand shall be effective as to any specific default during the continuance of such default, until Obligor or Guarantor has cured such default, and additional Demands concerning such default shall not be required until such default is cured.

3. REPRESENTATIONS AND WARRANTIES. Guarantor represents and warrants that:

(a) it is a corporation duly organized and validly existing under the laws of the State of Delaware and has the corporate power and authority to execute, deliver and perform this Guarantee;

(b) the execution, delivery and performance of this Guarantee have been and remain duly authorized by all necessary corporate action and do not contravene any provision of law or of Guarantor’s constitutional documents or any contractual restriction binding on Guarantor or its assets;

(c) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution, delivery, and performance of this Guarantee; and

(d) this Guarantee constitutes a valid and legally binding agreement of Guarantor enforceable against Guarantor in accordance with its terms, except as the enforceability of this Guarantee may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors’ rights generally and by general principles of equity.

4. EFFECT OF BANKRUPTCY BY OBLIGOR. The Guarantor’s obligation to pay or perform (as the case may be) under this Guarantee shall not be affected in any way by the institution with respect to Obligor of a bankruptcy, reorganization, moratorium or similar insolvency proceeding or other relief under any bankruptcy or insolvency law affecting creditor’s rights or a petition for Obligor’s winding-up or liquidation. This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any Obligation is rescinded or must otherwise be returned by the Customer upon the insolvency, bankruptcy or reorganization of Obligor or otherwise, all as though the payment had not been made to the Customer.

5. AMENDMENT. No term or provision of this Guarantee shall be amended, modified, altered, waived, or supplemented except in a writing signed by the Guarantor and the Customer.

6. WAIVERS. Guarantor hereby waives (a) notice of acceptance of this Guarantee; (b) presentment, demand, promptness, diligence and notice concerning the liabilities of Guarantor, except as expressly hereinabove set forth; and (c) any right to require that any action or proceeding be brought against Obligor or any other person, or to require that the Customer seek enforcement of any performance against Obligor or any other person, prior to any action against Guarantor under the terms hereof.

Except as to applicable statutes of limitation, no delay of the Customer in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights, or a release of Guarantor from any obligations hereunder.

Guarantor consents to the renewal, compromise, extension, acceleration or other changes in the time of payment or performance of or other changes in the terms of the Obligations, or any part thereof or any changes or modifications to the terms of the Project Contract.

Guarantor's obligations hereunder shall be irrevocable, absolute, and unconditional, irrespective of, and the Guarantor hereby irrevocably waives, any defenses related to (a) any lack of validity or enforceability of the Project Contract; (b) any taking, exchange, release, nonperfection, realization, or application of any collateral; (c) any early termination of any Obligation or the Project Contract; (d) any change, restructuring, or termination in or of the corporate structure or existence of Obligor; or (e) any other circumstance that might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety.

7. ASSIGNMENT. Neither the Guarantor nor the Customer shall assign its rights or obligations under this Guarantee without the express written consent of the other party, which consent shall not be unreasonably withheld. The Guarantor shall remain liable under this Guarantee, notwithstanding assumption of this Guarantee by a successor or assign, unless and until released in writing from its obligations hereunder by the Customer.

8. NOTICE. Any Demand to the Guarantor, and any notice, request, instruction, correspondence or other document to be given hereunder by any party to another (herein collectively called "Notice"), shall be in writing and delivered personally or mailed by certified mail, postage prepaid and return receipt requested, or by facsimile, as follows:

To Guarantor:

[REDACTED]

[REDACTED]

[REDACTED]

Attn: [REDACTED]

Tel. No.: [REDACTED]

Fax No.: [REDACTED]

With a copy
to Obligor:



To Customer: Rochester Gas and Electric Corporation
89 East Avenue
Rochester, NY 14649
Attn: IUMC Contract Administration
Tel. No.: [585-724-8028]
Fax No.: [585-771-2820]

Notice given by personal delivery or mail shall be effective upon actual receipt. Notice given by facsimile shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All Notices by facsimile shall be confirmed promptly after transmission in writing by certified mail or personal delivery. Any party may change any address to which Notice is to be given to it by giving notice as provided above of such change of address.

9. MISCELLANEOUS. THIS GUARANTEE SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, OR PROCEEDING RELATING TO THIS GUARANTEE. This Guarantee shall be binding upon Guarantor, its successors and assigns and inure to the benefit of and be enforceable by the Customer, its successors and assigns. The Guarantee embodies the entire agreement and understanding between Guarantor and the Customer and supersedes all prior agreements and understandings relating to the subject matter hereof. The headings in this Guarantee are for purposes of reference only, and shall not affect the meaning hereof. This Guarantee may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

[Signature page follows]

EXECUTED as of the day and year first written above.



By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[REDACTED]

PARENT COMPANY GUARANTEE

GUARANTEE AGREEMENT

This GUARANTEE AGREEMENT (this "Guarantee"), dated as of [REDACTED], is made and entered into by [REDACTED], a Delaware corporation, with its principal office located at [REDACTED] (the "Guarantor"), in favor of Rochester Gas & Electric Corporation, its successors and assigns (the "Customer"). Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Project Contract.

RECITALS

WHEREAS, ABB Inc. ("Obligor"), a wholly-owned subsidiary of the Guarantor, has entered into a General Construction Agreement, dated as of even date herewith, with Customer for the construction and other work relating to the **Design, Supply and Installation of GIS**

[REDACTED]
[REDACTED] (the "Project Contract");

WHEREAS, in order to induce Customer to enter into the Project Contract, Obligor has asked Guarantor to provide this Guarantee to Customer; and

WHEREAS, Guarantor will directly or indirectly benefit from the Project Contract.


NOW THEREFORE, in consideration of the Customer agreeing to enter into the Project Contract and conduct business with Obligor as contemplated thereby, Guarantor hereby covenants and agrees as follows:

1. GUARANTEE. Subject to the provisions hereof, Guarantor hereby for itself, its successors and assigns, irrevocably and unconditionally guarantees to Customer the performance when due by Obligor of the obligations, (of payment and performance) responsibilities, and undertakings to be carried out, performed or observed by Obligor (collectively, the "Obligations") to the extent and under the terms and conditions and subject to the limitations set forth in the Project Contract, it being the intent that the Obligations of the Guarantor under this Guarantee shall not be any greater than the obligations of Obligor under the Project Contract.

This Guarantee shall constitute a continuing guarantee of payment and performance and not of collection. Guarantor shall have no right of subrogation with respect to any payments it makes under this Guarantee until all of the Obligations of Obligor to the Customer are satisfied in full.

Guarantor shall be required to pay the reasonable out-of-pocket attorneys' fees and costs incurred by the Customer in the enforcement of this Guarantee.

[REDACTED]



2. DEMANDS AND NOTICE. If Obligor fails or refuses to perform or pay any Obligations, the Customer may make a demand upon Guarantor (hereinafter referred to as a "Demand"). A Demand shall be in writing and shall reasonably and briefly specify what Obligation Obligor has failed to satisfy in accordance with the terms and conditions of the Project Contract, and shall include specific statement that the Customer is calling upon Guarantor to pay or perform (as the case may be) such Obligation under this Guarantee. A Demand satisfying the foregoing requirements shall be deemed sufficient notice to Guarantor that it must pay or perform (as the case may be) the Obligations. A single written Demand shall be effective as to any specific default during the continuance of such default, until Obligor or Guarantor has cured such default, and additional Demands concerning such default shall not be required until such default is cured.

3. REPRESENTATIONS AND WARRANTIES. Guarantor represents and warrants that:

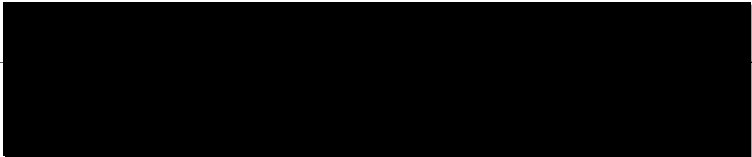
(a) it is a corporation duly organized and validly existing under the laws of the State of Delaware and has the corporate power and authority to execute, deliver and perform this Guarantee;


(b) the execution, delivery and performance of this Guarantee have been and remain duly authorized by all necessary corporate action and do not contravene any provision of law or of Guarantor's constitutional documents or any contractual restriction binding on Guarantor or its assets;

(c) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution, delivery, and performance of this Guarantee; and

(d) this Guarantee constitutes a valid and legally binding agreement of Guarantor enforceable against Guarantor in accordance with its terms, except as the enforceability of this Guarantee may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

4. EFFECT OF BANKRUPTCY BY OBLIGOR. The Guarantor's obligation to pay or perform (as the case may be) under this Guarantee shall not be affected in any way by the institution with respect to Obligor of a bankruptcy, reorganization, moratorium or similar insolvency proceeding or other relief under any bankruptcy or insolvency law affecting creditor's rights or a petition for Obligor's winding-up or liquidation. This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any Obligation is rescinded or must otherwise be returned by the Customer upon the insolvency, bankruptcy or reorganization of Obligor or otherwise, all as though the payment had not been made to the Customer.





5. AMENDMENT. No term or provision of this Guarantee shall be amended, modified, altered, waived, or supplemented except in a writing signed by the Guarantor and the Customer.

6. WAIVERS. Guarantor hereby waives (a) notice of acceptance of this Guarantee; (b) presentment, demand, promptness, diligence and notice concerning the liabilities of Guarantor, except as expressly hereinabove set forth; and (c) any right to require that any action or proceeding be brought against Obligor or any other person, or to require that the Customer seek enforcement of any performance against Obligor or any other person, prior to any action against Guarantor under the terms hereof.

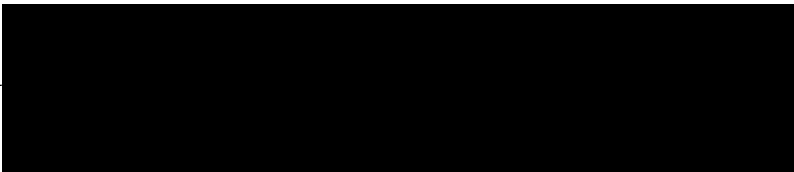
Except as to applicable statutes of limitation, no delay of the Customer in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights, or a release of Guarantor from any obligations hereunder.

Guarantor consents to the renewal, compromise, extension, acceleration or other changes in the time of payment or performance of or other changes in the terms of the Obligations, or any part thereof or any changes or modifications to the terms of the Project Contract to the extent such changes are expressly made in a written agreement executed by Obligor and Customer.

Guarantor's obligations hereunder shall be irrevocable, absolute, and unconditional, irrespective of, and the Guarantor hereby irrevocably waives, any defenses related to (a) any lack of validity or enforceability of the Project Contract as against Obligor; (b) any taking, exchange, release, non-perfection, realization, or application of any collateral held by Customer to secure Obligor's performance; (c) any early termination of any Obligation or the Project Contract; (d) any change, restructuring, or termination in or of the corporate structure or existence of Obligor; or (e) any other circumstance that might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety.

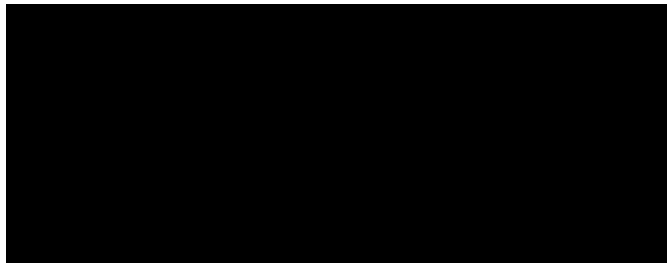
7. ASSIGNMENT. Neither the Guarantor nor the Customer shall assign its rights or obligations under this Guarantee without the express written consent of the other party, which consent shall not be unreasonably withheld. The Guarantor shall remain liable under this Guarantee, notwithstanding assumption of this Guarantee by a successor or assign, unless and until released in writing from its obligations hereunder by the Customer.

8. NOTICE. Any Demand to the Guarantor, and any notice, request, instruction, correspondence or other document to be given hereunder by any party to another (herein collectively called "Notice"), shall be in writing and delivered personally or mailed by certified mail, postage prepaid and return receipt requested, or by facsimile, as follows:

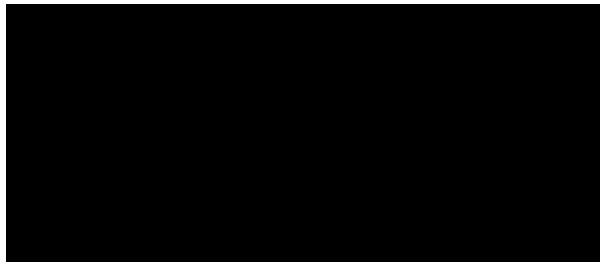




To Guarantor:



With a copy
to Obligor:

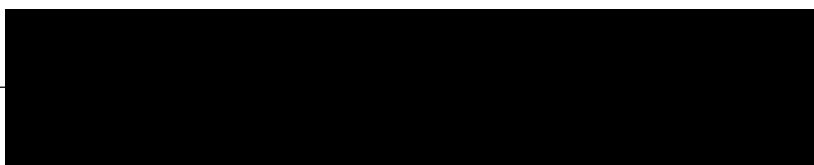


To Customer:

Rochester Gas & Electric Corporation
c/o Iberdrola USA Management Corporation
Contract Administration
89 East Avenue
Rochester, NY 14649
Phone: 585-724-8028
Fax: 585-771-282

Notice given by personal delivery or mail shall be effective upon actual receipt. Notice given by facsimile shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All Notices by facsimile shall be confirmed promptly after transmission in writing by certified mail or personal delivery. Any party may change any address to which Notice is to be given to it by giving notice as provided above of such change of address.

9. MISCELLANEOUS. THIS GUARANTEE SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, OR PROCEEDING RELATING TO THIS GUARANTEE. This Guarantee shall be binding upon Guarantor, its successors and assigns and inure to the benefit of and be enforceable by the Customer, its successors and assigns. The Guarantee embodies the entire agreement and understanding between Guarantor and the Customer and supersedes all prior agreements and understandings relating to the subject matter hereof. The headings in this Guarantee are for purposes of reference only, and shall not affect



the meaning hereof. This Guarantee may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

EXECUTED as of the day and year first written above.

By:

Name

Title:

By:

Name:

Title:

