

CONTRACT TERMS AND CONDITIONS: PURCHASE OF MATERIALS (NOT TO EXCEED \$1,500,000 VALUE)

1. DEFINITIONS

- a. "Affiliate" means a corporate entity (1) in which a Party owns or controls, directly or indirectly, greater than 50% of the entity's controlling interests; or (2) that is the parent of, or is owned or controlled, directly or indirectly, by the same parent entity that owns or controls the Party, provided that, the parent entity must own greater than 50% of the controlling interests of both the Party and the other corporate entity to be considered an "Affiliate" of both.
- b. "Applicable Laws" means those federal, state, or local laws, regulations, ordinances, treaties, judicial or administrative decisions, Permits, orders (including, without limitation, administrative authority or commission consent orders and confirmatory orders) or injunctions, Executive Orders, or any other legal pronouncements of a Governmental Authority that have the force or effect of law, which apply to Contractor's performance of the Work (as defined herein), the locations at which the Work is performed, or the liabilities of either party related to the Work.
- c. "Assign" or "Assignment" means a party's transfer or disposal of this Contract to any person or entity that is not a party, in whole or in part, or any interest in it, including use of this Contract or any payment or performance obligations under it as collateral.
- d. "Change of Control" means any transaction that changes the legal ownership or control of: (i) the party entity itself, or (ii) the party entity's immediate or ultimate parent Affiliate(s).
- e. "Defect" means Work that fails to meet the requirements of any required test, inspection or approval, and any Work that meets the requirements of any test or approval, but nevertheless does not meet other requirements of this Contract.
- f. "Force Majeure Event" means the following or similar (in nature and severity) event(s): act of God, act of civil or military authority, war, terrorist attacks, riot, insurrection, Unusual or Severe Weather, inability of TVA to obtain any required permits, licenses, or authorizations, blockades, embargoes, sabotage, or epidemics, in any of the foregoing cases, which: (i) are outside the control and without fault or negligence of a party claiming that such event has occurred, and (ii) directly and actually cause delay(s) in critical path Work, or prevent a party's performance or completion of Work.
- g. "Governmental Authority(ies)" means any federal, state, provincial or local administrative or regulatory authority, including non-U.S. authorities, that has or have authority or jurisdiction under Applicable Laws over a party's or its suppliers' or subcontractors' real or personal property, or current and future employees or operations, including but not limited to, TVA Sites, Work Products, and Materials.
- h. "Hazardous Materials" means: (i) toxic substances, hazardous substances or hazardous wastes, as such terms are defined by Applicable Laws, and (ii) any other pollutant or substance that is (x) regulated by, or (y) the release or discharge of which may cause liability for costs of response or remediation under, any Applicable Laws.
- i. "Records" means all recorded information, regardless of form or characteristics (and specifically including information created, manipulated, communicated, or stored in digital or electronic form), which are, in connection with this Contract: (1) made or received by TVA under federal Applicable Laws, or (2) created, received, or maintained by Contractor; provided that such Records may include Work Product(s) or deliverables, to the extent TVA retains or preserves them.

j. "Site" means any property on or to which TVA has any property interest (including, without limitation, ownership or lease, license, or easement rights).

k. "Subcontractor(s)" means Contractor's Affiliates, subsidiaries, subcontractors, suppliers, and agents, whether entities or persons, and the employee(s) of such entities or persons, at any tier, in each case, which or who supply or perform Work on Contractor's behalf under this Contract.

l. "Unusual or Severe Weather" means any weather event or series of events of recordable (as measured by the National Oceanic and Atmospheric Administration station nearest to the Work location) weather phenomena that is outside of the applicable ten (10) year monthly average parameters or measurements (such as seismic activity, floodwater levels, hurricane category, or tornado classification) for such event(s).

m. "Work Products" means any documents, drawings, reports, electronic hardware, deliverables, Records, and other work products generated, prepared, or provided to TVA by Contractor under this Contract, as part of or in connection with the Materials.

2. MATERIALS

Contractor agrees to provide the goods, equipment, or items ("Materials") detailed in the work scope attached hereto (if any) and in any Purchase Order or Work Release ("PO(s)") that both parties execute and that reference this Contract.

3. SPECIFICATIONS AND DRAWINGS

a. The Materials must comply with any specifications stated or referenced in this Contract (specifically including, without limitation, any Exhibits and Attachments to POs), and drawings issued by TVA, or Contractor (to the extent approved by TVA, or incorporated into this Contract), or both, in connection with the Materials, including revisions thereto. Amendments to drawings or to the specifications will not be effective without the prior written approval of TVA. Upon such written approval, any such amended or additional drawings or amended specifications are Records, and Contractor shall comply with them in its performance of Work.

b. Upon receipt of the specifications and any TVA-issued drawings, Contractor shall review them and promptly notify and identify to TVA any omissions or discrepancies within or, if applicable, between the specifications and drawings. Contractor shall not ship Materials affected by such identified discrepancies unless TVA's Contracting Officer and Contract Technical Steward, ("CTS") provide Contractor with written direction to proceed, or the parties negotiate an amendment to the relevant PO(s). Any proposed changes to the Materials resulting from Contractor's review of specifications or drawings must be pre-approved by TVA, in accordance with subsection a, above.

c. Except to the extent TVA prepares and issues drawings or additional specifications with which Contractor must comply, consistent with subsection a., above, Contractor is responsible for the development and technical preparation, review, and submittal to TVA of all designs, engineering, drawings, calculations, analyses, reports, Records and Work Products. Upon termination of this Contract or PO(s) for any reason, Contractor shall return or transfer to TVA any designs, engineering, drawings, calculations, analyses, reports, Work Products, and other Records that it has not previously provided to TVA, or that are not in TVA's possession as of the termination date.

4. INSPECTION

a. TVA may inspect and test the Materials to assess compliance with Contract requirements and specifications, upon receipt. at TVA site(s) or (upon reasonable prior written notice to Contractor) at Contractor's facilities. TVA may require that Contractor delay shipments of Materials until TVA can

complete inspection or testing at a Contractor facility. Any such inspection or testing is solely for TVA's benefit and does not relieve Contractor from any of its obligations under this Contract.

b. If TVA rejects any Work provided or delivered as: (i) having Defect(s), or (ii) being non-compliant with Contract requirements or specifications, TVA will notify Contractor in writing, and Contractor promptly shall take corrective action, at its expense. As stated in TVA's written notice, such Contractor corrective action(s) may include replacement, repair, and retesting.

c. TVA's failure or inability to inspect or to discover Defects or non-compliance in design, materials or workmanship does not relieve Contractor of its obligations under this Contract, nor prejudice TVA's rights under this Contract to reject or require the correction of Defects or non-compliance in accordance with this Contract.

d. TVA's acceptance of the Materials upon delivery to a TVA site does not constitute and will not be deemed a waiver or settlement of any non-compliance or Defect. TVA may reject Materials at any time upon the discovery of a latent Defect or a latent non-compliance with Contract requirements or specifications. TVA may provide partial acceptance for the Work. If TVA elects to provide acceptance for non-compliant or Defective Work, it may in addition to other remedies, deduct a reasonable, proportionate amount from submitted or future Proper Invoices as compensation for the non-compliance or Defect.

5. COUNTERFEIT, FRAUDULENT, and SUBSTANDARD MATERIALS

a. Contractor is hereby notified that the delivery of suspect, counterfeit, fraudulent, or substandard Materials is of special concern and is unacceptable to TVA. Contractor shall implement all reasonable controls to limit or eliminate use of such Materials.

b. For the purposes of this section the following definitions apply:

1. Counterfeit – counterfeit items are items that are intentionally manufactured or altered to imitate a legitimate product without the legal right to do so.

2. Fraudulent – fraudulent items are counterfeit or substandard items that are intentionally misrepresented with the intent to deceive.

3. Substandard- a substandard item is a component, part, or material that has a legal right or authority to be manufactured, repaired, or refurbished but that does not meet the commercial standard or procurement requirement as defined by catalogue, proposals, procurement specifications, design specifications, testing requirements, contracts, or similar documents.

c. If any Materials are described using a manufacturer part number or a product description, or specifies an industry or TVA standard, Contractor shall ensure that the original equipment and replacement parts supplied by it or its Subcontractors are made by the Original Equipment Manufacturer (OEM) and meet (as applicable) all TVA specifications, requirements of the latest version of the applicable manufacturer's data sheets, description, or industry standards.

d. If Contractor discovers, or has reason to believe, any Materials are Fraudulent, Counterfeit or Substandard, Contractor shall immediately notify TVA, provide written details of the known or suspected issue(s), and suspend shipment of such Materials until it receives TVA's written approval to ship such Materials to TVA.

e. TVA may reject any Fraudulent, Counterfeit or Substandard Materials (or components thereof) that Contractor delivers to TVA, or which TVA subsequently determines are Fraudulent, Counterfeit, or Substandard. If Contractor discovers or has reason to believe at any time after delivery, that it has shipped Fraudulent, Counterfeit or Substandard Materials to TVA, it shall immediately notify TVA, and promptly replace such Materials with Materials that meet TVA specifications. Contractor shall cooperate fully with TVA and its agents in investigating whether Materials or components thereof are Fraudulent, Counterfeit or Substandard. Contractor is responsible for all costs associated with investigation and replacement of Fraudulent, Counterfeit, and Substandard Materials. TVA's failure to reject or TVA's election not to reject shall not be deemed a waiver of any other rights TVA may have for a breach of this Section.

6. TERMINATION

a. TVA may terminate this Contract or any PO issued hereunder, in whole or in part, by written notice to Contractor: (a) upon Contractor's default in performance of this Contract or any such PO, specifically including: (i) Contractor's failure to meet Contract or PO performance or delivery schedules, and (ii) the failure of Contractor's Materials to comply with requirements or specifications stated or referenced on PO(s), and Contractor's failure to cure the default within ten (10) calendar days of the date that TVA issues such notice of termination; or (b) for TVA's convenience, if such termination is in TVA's best interest.

b. Regardless of the reason for termination, TVA: (1) is not liable to Contractor for amounts in excess of the payments due for Materials properly delivered before the effective date of termination, and (2) is not obligated to pay any Contractor invoice submitted later than 45 days after the effective date of the termination. A TVA notice of termination for default will describe the Contractor default(s) that justify the termination. Upon a termination for default, TVA has and may exercise any and all rights and remedies against Contractor available to TVA at law or in equity.

7. COMPENSATION, INVOICING, AND PAYMENT

a. Compensation

If TVA accepts Contractor's proposed firm, fixed, or "lump sum" price for the Materials and related work (a "Fixed Price"), TVA will pay Contractor such Fixed Price in accordance with subsection b below, after delivery of Materials that comply with the requirements of this Contract and PO(s) issued under or referencing these Contract terms. The Fixed Price(s) include all costs that Contractor and its subcontractors, and their agents and employees, incur in connection with the manufacture and supply of the Materials, and the performance and completion of related work. The Fixed Price(s) will not be changed except pursuant to a fully executed written amendment to this Contract. The parties also may agree, on individual PO(s), that (as examples) TVA will pay for Materials on a fixed, per-unit basis, or that prices for Materials will adjust over period(s) of time during the Contract term, based on fixed percentages or external indices.

b. Invoicing and Payment

1. Contractor must submit all Proper Invoices, including supporting documentation, through the Maximo Portal within TVA's Supplier Connections website, at www.tva.com/supplier. With respect to Proper Invoices submitted under this subsection b.1., Contractor must provide all information required by the referenced website and portal in order to successfully and timely submit its invoice(s). If errors within the referenced website or portal prevent Contractor from submitting one or more Proper Invoice(s) for more than one 24 hour period, the parties may agree to allow Contractor to submit such invoice(s) electronically to TVA in a single .PDF or .TIF file, at accountspayable@tva.gov, or in any other manner to which the parties mutually agree, in writing.
2. Contractor certifies that: (i) to the best of its knowledge and belief, all information contained in each Proper Invoice is true and correct, (ii) all costs, charges and expenditures submitted were made and incurred in accordance with the provisions of this Contract, and have been actually paid by Contractor, and (iii) payment for the amounts on such Proper Invoice has not been received from TVA or otherwise paid or reimbursed to the Contractor by any other party, in whole or in part.
3. All payments due to either party under this Contract are subject to the Prompt Payment Act, 31 U.S.C. §§ 3901-3907.

8. TAXES

a. As a corporate agency and instrumentality of the United States government, and pursuant to Section 13 of the TVA Act of 1933, TVA (federal EIN # 62-0474417) is expressly exempt from state and local taxation. By entering into this Contract, Contractor certifies that no sales or use taxes imposed on any Work purchased by TVA, by a state, county, municipality, or any subdivision or district of the foregoing jurisdictions, are or will be included in the amounts invoiced to TVA. Contractor is responsible for payment of any other taxes imposed on it related to the Work, and for taking appropriate measures to identify and claim any available tax exemptions or reductions.

b. Contractor is responsible for payment of any other taxes it incurs in performance of this Contract, including sales or use taxes on products installed or consumed by Contractor rather than sold directly to TVA, and for taking appropriate measures to identify and claim any available exemptions or reductions to such taxes (such as exemptions for electrical generating equipment under Tennessee Code Ann. § 67-6-209(e)). Contractor must incorporate any applicable taxes (including, without limitation, any applicable Federal excise taxes or duties) into its Fixed Price(s) invoiced to TVA.

9. TVA AND CONTRACTOR REPRESENTATIVES

a. TVA's Contracting Officer for this Contract is specified on the PO's unless and until TVA designates, by written notice to Contractor, a different individual to act as the Contracting Officer. No change, supplement or amendment to this Contract is valid or effective without the written consent of TVA's Contracting Officer. Contractor shall provide all notices required by this Contract, and related correspondence, directly to the Contracting Officer.

b. If the Contracting Officer designates one or more CTS, Contractor shall direct technical communications, documents, and information, and materials (or samples or analyses thereof, as applicable) to such CTS(s). No CTS is authorized to modify this Contract or to issue direction contrary to this Contract, but a CTS may (by written notice to Contractor and the Contracting Officer) designate other TVA personnel to act on his or her behalf.

c. For purposes of this Contract, Contractor shall designate Contractor Representative(s) in writing upon request by TVA's Contracting Officer.

10. ASSIGNMENT AND CHANGE OF CONTROL

a. Neither party will, without the prior, written consent of (respectively) TVA's Contracting Officer or a corporate officer of Contractor, which in either case shall not be unreasonably withheld, Assign or effect an Assignment regarding or with respect to this Contract, provided, however, that no such consent is required in connection with an Assignment: (i) by Contractor, to one or more financial organizations in connection with Contractor's financing needs, of its right to receive payment from TVA, or (ii) if Contractor has provided to TVA the notice and information required by subsection (c), below (addressing a Change in Control), prior to the Assignment, and the Assignment results from a corporate merger, reorganization or transfer to a U.S.-domiciled Affiliate. This Contract shall not be assigned or transferred to, or assumed by, any individual or entity listed on the U.S. Department of Commerce's International Trade Administration Consolidated Screening List (www.trade.gov/consolidated-screening-list).

b. A party that requests the other party's consent to an Assignment must notify the latter party in writing, prior to any proposed Assignment, and in such request or notification:

1. Describe the proposed Assignment and underlying transaction(s) in detail, including providing corporate organizational charts that clarify the party's ownership before and after the transaction; and

2. Provide assurance to the consenting party that, post-Assignment, the assignee or transferee person or entity will, at minimum: (i) protect the consenting party's Confidential Information, and (ii) be willing and capable to continue performance of Work, in all cases, in full compliance with Contract requirements and specifications.

c. Each party must notify the other party in advance and in writing of any Change in Control, and in such notification:

1. Describe the proposed Change in Control and underlying transaction(s) in detail, including providing corporate organizational charts that clarify the party's and its Affiliates' ownership before and after the Change in Control; and
2. Provide assurance to the other party that, post-Change in Control and during the remaining Contract term, the party and its Affiliates will, at minimum: (i) protect the other party's Confidential Information, (ii) not prevent or restrict the notifying party's continued performance of Work, and (iii) as applicable, maintain or renew any bonding or other surety requirements, or guaranty(ies) provided by the notifying party's parent entity(ies) or other Affiliates, at the levels or amounts stated in the Contract.

d. Either party's failure to comply with all requirements of this Section voids any proposed Assignment and constitutes a default.

11. SHIPMENT/DELIVERY

a. Time is of the essence. Contractor shall ship all Materials in compliance with this Contract and with the instructions contained in PO(s) issued hereunder, or specific, written instructions issued by TVA. If Contractor routes shipments contrary to this Contract, PO(s), or such instructions, TVA is not liable or obligated to pay any amount in excess of the shipping costs that would have been incurred had Contractor complied with Contract or PO terms, or followed the specified instructions. Each PO must indicate whether (1) Contractor's costs of shipping the Materials are included in, or will be invoiced in addition to, the Fixed Price (and any other pricing structure to which the parties have agreed), or (2) TVA is responsible for handling shipment of the Materials from Contractor's origin facility(ies) to TVA's designated delivery point(s).

b. Contractor shall ship all Materials Delivered Duty Paid (DDP, INCOTERMS 2010) or F.O.B. Destination (Freight Prepaid) (Contractor is responsible for selecting a carrier, and retains title and risk of loss until delivery to TVA's Site destination). Contractor shall not charge or invoice to TVA any additional valuation or cargo insurance. Unless TVA or its agent(s) directly cause shipment delays, if the actual delivery date is later than the delivery date stated on the relevant PO(s), then Contractor will be liable for all additional charges (including costs of emergency or expedited loading, shipment, and unloading) related to such delayed delivery date.

c. Contractor must prepare the Materials provided under this Contract for shipment, accurately identify the Materials (with, at minimum, a bill of lading or packing list(s) that describe the Materials, their quantity, and the Contract or PO number), pack the Materials to protect them from damage in transit, and package the Materials for shipment to facilitate their safe unloading at the TVA destination. TVA may provide additional shipment or packaging instructions at time of shipment or issuance of the PO. Contractor is responsible and liable for any and all damage to Materials due to improper preparation for shipment, receiving, handling, or storage.

12. TRANSPORTATION LAWS AND HAZARDOUS MATERIALS

- a. Contractor shall comply, and is responsible for its employees' and Contractor's Subcontractors' compliance, with all Applicable Laws governing the transportation of Materials and any Hazardous Materials in connection with this Contract, including, without limitation, laws and regulations related to the licensing of commercial motor vehicle drivers, and Applicable Laws governing transportation security.
- b. Contractor will, upon TVA's written request, provide written evidence that Contractor's or Contractor's Subcontractors' drivers have a valid commercial motor vehicle driver's license with all required endorsements for the load(s) necessary to deliver Materials to a TVA site.
- c. If Applicable Laws require that Contractor or Subcontractor(s) prepare a Transportation Security Plan (TSP) in connection with its or their transportation of Hazardous Materials to or from a site, Contractor shall, as requested and specified in writing by TVA's Contracting Officer, or in PO(s): (1) provide to TVA a written certification that Contractor's TSP complies with such Applicable Laws; and (2) supply a copy of its TSP to TVA.
- d. Contractor shall include this Section in its subcontracts, if Contractor's Subcontractors will transport Materials or Hazardous Materials to or from a TVA site.

13. WARRANTIES-MATERIALS

- a. Contractor warrants that the Materials and related work provided to TVA:
 1. Are free from Defects due to faulty workmanship or material;
 2. Are fit for the intended use(s) and purpose(s) including, but not limited to, those uses and purposes specified or referred to in this Contract or PO(s);
 3. Comply with this Contract, PO requirements and specifications, applicable laws, regulations, and standards issued by federal, state, and local government authorities and standards boards, and industry association standards;
 4. Are, unless otherwise specified by TVA in a PO, new, unused, not surplus (never before sold for use), and not rebuilt;
 5. Are free from Defects in design (except to the extent TVA or a third party that is not a Subcontractor to Contractor has provided or directed the design of the Materials); and
 6. Are not fraudulent or counterfeit.
- b. If Contractor is notified in writing that the Materials fail to comply with any of the warranties stated in subsection a, above, during the warranty period of twenty-four (24) months from first use of the Materials, Contractor will, at TVA's option and Contractor's expense, refund to TVA the portion of the invoiced amount(s) paid for the Defective Materials, or correct such nonconformity by repair or replacement, to TVA's reasonable satisfaction. Contractor shall pay transportation and labor costs incurred in connection with correcting such Defects in the Materials. Contractor shall correct any Defects only at times designated by TVA. Any portion of the Materials that have undergone warranty repair or replacement, or on which corrective action has been performed, will be warranted as provided in subsection a, above. If it is impractical for TVA to wait for Contractor to perform corrective action, TVA may have such corrective actions performed at Contractor's expense. If Contractor's corrective action fails to render the Materials compliant with the warranties stated in subsection a above, or Contractor fails to take the appropriate corrective action within a reasonable time after receiving notice of the relevant defect(s) or noncompliance, then TVA may terminate this Contract (in whole or in part) for default.

c. If the Materials are covered under a manufacturer's or Subcontractor's warranty, Contractor, upon TVA's written request, shall assign to TVA the right to enforce any such warranty. Such third-party warranties do not in any way limit or modify Contractor's warranties to TVA under this Contract.

d. Contractor's failure to correct a Defect within a reasonable time of receiving written notification of the defect from TVA constitutes a default under subsection b, above.

e. The foregoing warranties and remedies are in addition to any specific warranties, guarantees, or remedies contained in this Contract or available at law.

14. SPECIFIC REQUIREMENTS FOR FOREIGN OR NUCLEAR MATERIALS

a. If this Contract or any associated PO value is at or above \$250,000, Contractor will provide Materials compliant with the Trade Agreements Act of 1979, 19 U.S.C. §§ 2501-2581 ("TAA"), to the extent the TAA is applicable. TVA may reject any Materials that do not comply with the TAA.

b. If under this Contract or any associated PO, TVA purchases Materials from Contractor that are or may be subject to any level of the Quality Assurance ("QA") requirements established by the U.S. Nuclear Regulatory Commission ("NRC") ("QA Materials"), then the following requirements apply to Contractor and the QA Materials, as stated:

1. TVA's QA organization must approve Contractor's listing on TVA's Acceptable Suppliers List ("ASL"), and approve Contractor's subcontractors, distributors, and agents ("Suppliers," for purposes of this Section 8.b), if Contractor does not manufacture, supply or distribute the QA Materials. TVA will not list Contractor or its Supplier(s) on the ASL unless the Supplier(s) manufacture, distribute, handle, transmit QA and technical requirements to Contractor or among Suppliers, store, or ship (or any one or more of the foregoing) QA Materials and maintain a QA program (e.g., ANSI N45.2, ASME, Commercial) that TVA's QA Organization has approved.
2. Suppliers must ensure that TVA quality and technical requirements are transmitted to Contractor and other Supplier(s) who contribute to, distribute or deliver the QA Materials, obtain required documentation from Contractor, provide the information to TVA, and maintain traceability to the Supplier(s)' production data (such as lot number, date of manufacture, and production number).
3. Contractor and each Supplier must provide TVA with a written list, table or chart stating, at minimum, for each QA Material(s) or group of QA Materials, the QA Materials' item number, description, and the ASL Supplier's corporate name and full street address.
4. Contractor must direct any questions about a Supplier's ASL approval status to: Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2801, Attn: Vendor Audit & Services - LP5M, (423) 751-7726 or (423) 751-2051.
5. Contractor shall determine whether the QA Materials are subject to the requirements and civil penalty provisions of NRC's regulations, at 10 C.F.R. Part 21 (Reporting of Defects and Noncompliance), and shall inform TVA immediately in writing of each defect or noncompliance reportable under 10 C.F.R. Part 21. Contractor must send any such notice to the following TVA address, with a copy to the Contracting Officer: TVA Nuclear Power Performance Improvement, TVA Nuclear, Nuclear Assurance and Licensing Attention: Manager - Operating Experience 1101 Market Street, Chattanooga, TN 37402-2801.

15. AUDIT RIGHTS

a. Records. Contractor shall keep accurate Records and books of accounts in electronic form supporting the amounts invoiced to TVA under this Contract. TVA, or its agents, may audit without restrictions and at no additional cost to TVA, at any time during normal working hours, all amounts that Contractor invoices to TVA, and may examine Contractor's Records and books of accounts specifically relating thereto. Contractor also shall maintain nonfinancial documentation and Records that relate to whether Work complies with the requirements of the Contract. Contractor shall preserve and make available its Records and books of accounts, both manual and electronic, for a period of six (6) years from the date of final payment under this Contract. If this Contract is terminated, such Records and books of accounts shall be preserved and made available for a period of six (6) years from the date of any resulting final settlement. Contractor also must retain Records and books of accounts that relate to litigation or the settlement of claims arising out of the performance of Work under this Contract, or costs and expenses invoiced by Contractor to TVA but disputed by TVA, until such claims or disputes have been litigated to conclusion or settled by the parties.

b. Overpayments, Errors and Irregularities. In the event that an audit or investigation under this Section discovers: (1) that TVA has overpaid Contractor for Work, based on the contents or lack of supporting Records; or (2) errors or irregularities in Contractor's invoices to TVA, Contractor shall adjust the affected, invoiced amounts accordingly, if TVA has not already paid such amounts, or, if TVA has paid the affected invoiced amounts, refund to TVA by EFT the amounts of such adjustment(s) based on the overpayment(s), or errors or irregularities, retroactive to the Effective Date. If such amounts exceed ten percent of the aggregate value of invoices submitted during the audit period, Contractor agrees to reimburse TVA both the excess amounts paid to Contractor, plus additional damages of up to ten percent (10%) of that excess amount.

c. Refund and Interest. Contractor shall refund to TVA: (1) any TVA payments to Contractor or Subcontractor(s) that an audit determines were made in violation of Contract terms, or are not verified (or verifiable) by the Records that Contractor must retain, under subsections (a) and (b), above, and (2) any overpayments made by TVA to Contractor. Contractor shall refund any amounts payable to TVA under this section by EFT within (respectively) three (3) business days of TVA's written request, or on the Proper Invoice immediately following such written approval, and is liable to TVA for interest on the amount of any such refunded amounts, at the rate or rates as prescribed in the federal Prompt Payment Act. Interest will be calculated beginning on: (i) for overpayment refunds, the date the overpayment was made to Contractor, and (ii) for any other refunds, the date of TVA's written request, and in either case (i) or (ii), ending on the date TVA receives Contractor's EFT for the requested amounts.

16. DISPUTES AND GOVERNING LAW

This Contract is governed by and will be construed under Federal law. In the event Federal law does not provide a rule of decision for any particular dispute, the law of the State of Tennessee will apply; provided, however, in no event shall Tennessee's choice of law provisions apply. Pending resolution of any dispute, Contractor shall proceed with the work in accordance with the determinations, instructions, and clarifications of TVA's Contracting Officer. The parties will use their best efforts to resolve disputes informally at the lowest possible levels of decision making, and consensual alternative dispute resolution processes may be used. The parties agree that any lawsuit between them that asserts a claim or claims arising out of or related to this Contract (whether sounding in Contract, tort, or otherwise) shall be filed and litigated to conclusion only in the United States District Court for the Eastern District of Tennessee, and each party hereby consents to the jurisdiction and venue of that court for all such lawsuits. The parties further agree that in any such litigation, each will waive any right it may have to a trial by jury. This Section 9 is not a "disputes" clause within the meaning of the Contract Disputes Act, 41 U.S.C. §§ 7101-7109, and this Contract is not subject to that Act.

17. INTELLECTUAL PROPERTY RIGHTS

a. TVA will own all items and Work Products that Contractor delivers or provides to TVA in connection with or as integral to the Materials, and which are necessary for TVA's installation, use, maintenance, repair, or removal of such Materials.

b. Contractor hereby indemnifies and holds harmless TVA from all suits, claims, actions, losses, damages, and expenses, including attorney's fees, and at its expense shall defend any suit against TVA, in so far as it is based on the claim of infringement of any United States patent, copyright, or other intellectual property right, related to the Materials. TVA shall immediately notify Contractor in writing of any such suit or claim, and permit Contractor to defend same. If in any such suit or claim, the Materials, or their utilization by TVA, Contractor, or any party on TVA's behalf, is held to constitute infringement, or is otherwise determined to violate any intellectual property right, Contractor at its expense shall procure for TVA the necessary licenses and rights to continued utilization of the Materials; provided that, subject to TVA's written approval, Contractor at its expense may replace or modify the Materials so that they become non-infringing, and provided further, that any substituted or modified Materials must comply with, and be subject to, this Contract's or PO(s)' requirements. The aforementioned obligations shall not apply to any Materials, the detailed design of which (excluding rating and/or performance specifications) has been furnished in writing by TVA. Contractor warrants that no information that it discloses to TVA under this Contract is subject to or violates an obligation of privilege or confidentiality to any third party.

18. NO WAIVER

TVA's allowance or requirement that Contractor deliver Materials after the completion time specified in this Contract or any affected PO does not constitute a waiver of any right, remedy or damages TVA may have or seek due to Contractor's delay. TVA's waiver of any Contractor breach of this Contract shall not be deemed to waive any other or subsequent breach. No time limits in this Contract shall be waived by TVA's Contracting Officer's consideration of any untimely notice or information by Contractor.

19. DELAYS, REMEDIES, AND WAIVERS

a. No failure or delay in either party's performance of its obligations under this Contract will result in a default under this Contract, to the extent that such failure or delay is caused by a Force Majeure Event, and: (1) the non-performing party is without fault in causing such default or delay; (2) such default or delay could not have been prevented by reasonable precautions; and (3) such default or delay could not have been reasonably circumvented by the non-performing party through the use of alternate sources, work-around plans or other means.

b. TVA will not terminate this Contract or affected PO(s) for default if: (1) Contractor has notified TVA's Contracting Officer and CTS, in writing within three (3) workdays of the Force Majeure Event, that its delays or failure to meet applicable Work schedule(s) are caused by a Force Majeure Event, and the duration or expected duration of the delays or failure; and (2) TVA's Contracting Officer determines, in his or her sole judgment, that Contractor's delays or failures to meet applicable schedule(s) are due to a Force Majeure Event. TVA may deem Contractor's failure to provide the written notice required in this subsection as sufficient grounds to deny Contractor's claim for an equitable adjustment or other relief caused by the Force Majeure Event.

c. If and to the extent that any delay is caused by a Force Majeure Event, the time for performance of each party (including the payment of Proper Invoices submitted by Contractor, if such event actually prevents payment) will be extended for a period of time reasonably necessary to offset the effect of such delay or failure, subject to this Section's specific requirements, and except as provided for elsewhere in this Contract.

d. Contractor's delays due to its Subcontractors will not be excusable unless (1) delay was also caused by a Force Majeure Event, and (2) Contractor demonstrates to TVA that it could not have obtained replacement or substitute Work in compliance with Contract or PO requirements or specifications from other third party suppliers.

e. If TVA notifies Contractor in writing of its determination of causes of delays or failures, extension of time, or denial of a request for modified performance of Work or schedule, and Contractor fails to object to such TVA notice by written response within thirty (30) days of the date of TVA's notice, the provisions of such TVA notice will bind both parties as a change notice under the Changes Section of this Contract.

f. TVA's allowance or requirement that Contractor complete Work after the completion time specified in this Contract or any affected PO does not constitute a waiver of any right or remedy that TVA has under this Contract, under law or in equity, or TVA's right to claim damages or injunctive relief against Contractor because of Contractor's delay. No TVA extension of Contractor's time for performance of Work will release Contractor's sureties (if any) from their obligations. No TVA waiver of any Contractor breach of this Contract will be construed to waive any other or subsequent breach. TVA's Contracting Officer's acceptance or consideration of any untimely notice or information by Contractor does not waive any time limits or schedule deadlines stated in this Contract or any PO issued hereunder.

20. CHANGES

a. TVA's Contracting Officer may at any time, without notice to Contractor's sureties (if any), issue a written change notice, making changes in the Work within the general Work Scope of this Contract (a "Change Notice"), including, without limitation, the following changes:

1. Drawings, designs or specifications.
2. Method or manner of performance of Work.
3. Acceleration or deceleration in the performance of Work.

b. A Change Notice becomes an effective Contract obligation: (1) when both parties execute the Change Notice and associated documents (for example, but without limitation, a revised specification, milestone payment schedule, or PO); (2) subject to subsection c., below, if Contractor does not notify TVA in writing of any claims against TVA within five (5) business days of the date stated on TVA's Change Notice; or (3) immediately, if the Contracting Officer states in the Change Notice that it is impractical to delay implementation of the change. The parties also may agree to amend this Contract or any PO(s) affected by the issued Change Notice, in lieu of or in addition to executing the Change Notice.

c. Pending resolution of any claims (under this Contract's Disputes and Governing Law Section, or otherwise), or execution of the change notice or any related amendment, Contractor shall proceed with the Work as modified by the Change Notice. TVA's Contracting Officer may, but is not obliged to, accept or consider any Contractor or its subcontractor(s)' claims arising from a Change Notice after the five (5) business day time period established in subsection b., above. TVA will not accept or consider any such claim after it has made final payment to Contractor under this Contract.

d. Contractor must continue to perform all Work not modified by the Change Notice, as required in this Contract. If at any time Contractor believes that acts or omissions by TVA constitute a change to Work not covered by a Change Notice, Contractor must notify TVA in writing within ten (10) days from its discovery of such acts or omissions, in order for TVA to consider the request.

e. TVA is not liable to Contractor or any Subcontractor for increased costs in connection with any Change Notice or related claims, whether in tort or in contract, except as specifically provided in this Section, or pursuant to an executed amendment to this Contract.

21. INFORMATION TECHNOLOGY

This Section 21 applies to the extent that Contractor's scope of Work involves providing, servicing, or accessing one or more of the following: IT Work, Operational Technology, TVA Information Systems, or TVA Networks, as defined herein.

1. Definitions

- a. "ByteDance Limited Products" means the social networking service TikTok or any successor application or service of TikTok developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.
- b. "Contract Information" means any non-public information related to this Contract and the Work, including but not limited to any TVA Confidential Information disclosed to Contractor.
- c. "Cyber Asset" means any programmable electronic device, including hardware, software, information, or any of the foregoing, which are components of such devices or enable such devices to function.
- d. "Harmful Code" means any computer instructions, circuitry or other technological means whose purpose is to disrupt, damage or interfere with information systems or other systems and data, including, without limitation, any automatic restraint, time-bomb, trap-door, virus, worm, Trojan horse, time lock, clock or any other harmful, malicious or hidden procedure, routine or mechanism.
- e. "IT Work" means the total of all hardware, software, software licenses, networks, cloud services, telecom, servers, databases, electronic programs, and related actions, management, services, Operational Technology (as defined herein), Records (electronic or physical) or responsibilities, that Contractor will develop, update, upgrade, grant, deliver, transmit, perform, or provide to TVA under this Contract.
- f. "Kaspersky Product" means any software code, or any information security product, solution, network, system, or service, that is or has been supplied (directly or indirectly) by AO Kaspersky Lab or any of its predecessor entities or its Affiliates (including, without limitation, Kaspersky Lab North America, Kaspersky Lab, Inc., and Kaspersky Government Security Solutions, Inc.), or any entity in which one or more of the foregoing has majority ownership or voting control.
- g. "Network" means a system implemented with a collection of connected components, including routers, hubs, cabling, telecommunications controllers, key distribution centers, and technical control devices.
- h. "NIST" means the National Institute of Standards and Technology, a federal agency within the U.S. Department of Commerce.
- i. "Operational Technology" means programmable systems or devices that interact with the physical environment, or manage devices that interact with the physical environment.
- j. "Vulnerability(ies)" means any publicly disclosed material defect or compromise to the cybersecurity of Contractor's or its Subcontractor(s)' product or service provided, serviced, or delivered to TVA as part of the IT Work.

2. Warranties and Product Integrity

- a. Contractor represents and warrants that IT Work and any media used to distribute IT Work:
 1. do not contain Harmful Code at the time of initial delivery or at the time of updates or upgrades. Contractor shall cooperate with TVA, and shall make commercially reasonable efforts, including

use of an industry standard scanning tool, to prevent the introduction and proliferation of Harmful Code into TVA's Information Systems, including software and hardware necessary to operate such Information Systems and the TVA Network(s) on which such Information Systems reside;

2. do not contain and have never been affected by input from, included on any required information technology as, and are free from, any Kaspersky Products, ByteDance Limited Products, or any other software products (or combination thereof) that are prohibited by Applicable Laws, including, without limitation, Department of Homeland Security Directives and Office of Management and Budget memoranda;
 3. will not require the storage, processing, or communication of TVA Contract Information outside of the United States without TVA's prior, written approval; and
 4. will only allow United States Persons, as defined by 22 CFR Part 120.15, or other individuals legally authorized under Applicable Laws, specifically including Export Control Laws, to access Contract Information and to provide technical support of the IT Work.
- b. Contractor shall indemnify and hold TVA harmless from all liabilities resulting from Contractor's and its subcontractor(s) failure to comply with subsections a.1, a.2, and a.4 above.
 - c. Contractor must provide or deliver to TVA Work Products that comply with the requirements stated in subsection (a), above, and the following (as appropriate and specified on PO(s)): (1) for Work Products delivered physically, in sealed boxes, packaged to indicate that the seal has not been broken, disturbed, or modified, (2) for Work Products delivered electronically, but separately from the Work Products themselves, a list of all delivered files and (i) the sha-1, sha-2 hash values. TVA receiving personnel will verify that either: (x) tamper evident seals of the packaging are intact, or (y) Contractor has provided (by email or otherwise in writing) the information required by subsection (2), above, or (as appropriate) a cryptographic key and access information for the electronic Work Products.
 - d. The IT Work provided under this Contract shall not contain so-called "shrink wrap" or "click wrap" license terms, provided that, if Contractor packages or electronically delivers to TVA licenses or versions of IT Work that contain any such "shrink wrap" or "click wrap" license terms, the terms and conditions of this Contract and the applicable PO apply, and supersede the terms of the "shrink wrap" or "click wrap" license.
 - e. Within thirty (30) days of the Effective Date, Contractor shall provide to TVA information or documentation sufficient to enable TVA to determine that appropriate security controls are in place and operating as expected. Contractor shall provide independent testing of those controls, and document and maintain a plan that describes specific measures that it will take to correct any deficiencies found during independent testing. Specifically, Contractor must obtain and provide to TVA, within one year of the Effective Date, a complete third party cybersecurity attestation, including but not limited to a Systems and Organization Controls ("SOC") 2 Type 2 Report and an annual SOC 2 Type 2 audit review (a "SOC 2 Report"), or an International Organization for Standardization ("ISO") 27001 Certification and Report and annual ISO 27001 audit review (an "ISO 27001 Report"). If Contractor cannot provide a complete third party cybersecurity attestation, then it must deliver to TVA a self-attestation (compliant with NIST requirements, and reasonably acceptable to TVA in form and substance) documenting its security controls and policies.
 - f. If required by Applicable Law (specifically including, for purposes of this Section, Executive Order 14028) or upon TVA's request, Contractor shall (i) provide to TVA or its designated agent a formal record containing the details and supply chain relationship of various components used in building the software provided under this Contract, commonly known as a Software Bill of Materials ("SBOM"), or (ii) implement or incorporate phishing-resistant multifactor authentication ("MFA") components to the IT Work, or both, as further set forth in an applicable PO.

- g. Contractor shall ensure that its Subcontractor(s) comply with this Section, and is liable for such Subcontractor(s)' failure to comply with this subsection.

3. Accessible Technology, Software, Web Sites and Services

- a. Upon TVA's request, Contractor shall provide TVA with responses to the relevant portions of the Voluntary Product Accessibility Template (VPAT), located at <http://www.itic.org/public-policy/accessibility>, which will assist TVA in determining Contractor's compliance with Section 508 of the Rehabilitation Act, 29 U.S.C. 794d, and the Access Board Standards (see <https://www.section508.gov/manage/laws-and-policies/>).
- b. Unless otherwise approved by the Contracting Officer, all applicable IT Work must comply with Section 508 of the Rehabilitation Act when accessible technology is available in the market and meets TVA's Work requirements and specifications.

4. TVA Furnished Information Technology Equipment

- a. TVA may elect to furnish TVA-owned information technology equipment ("TVA IT Equipment," as defined herein) for Contractor's use if TVA determines that such use is the most cost-effective way to support the Contractor's performance of Work. For purposes of this Section, TVA IT Equipment means: (a) any equipment or interconnected system or subsystems of equipment that are used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching interchange, transmission, or reception of data or information; and (b) computers; ancillary equipment, data communication lines and other communication hardware, software, firmware; or similar equipment identified on PO(s).
- b. TVA will deliver to Contractor any TVA IT Equipment at the time and location specified in PO(s), or as otherwise authorized in writing by TVA's Contracting Officer.
- c. All TVA IT Equipment, and any services, maintenance or support provided by TVA or third-party contractors relating to such TVA IT Equipment, are provided to Contractor "AS IS" or on a courtesy basis (as applicable), disclaiming any warranties by TVA or on TVA's behalf.
- d. TVA owns and will retain title to all TVA IT Equipment provided to Contractor, including any such equipment that Contractor purchases as agent for TVA, or otherwise on TVA's behalf (if and as authorized by specific PO(s)). Contractor shall not use TVA IT Equipment except in direct support of its Work under this Contract. Contractor assumes the risk and responsibility for loss or damage (other than as incident to reasonable usage for purposes of the Work) to any TVA IT Equipment after its initial delivery to Contractor, and until its return to TVA.
- e. Contractor shall maintain written property control records for all TVA IT Equipment in accordance with sound business practices and will make such Records available for TVA inspection, upon TVA's request.
- f. Upon completion of Work or termination of this Contract for any reason, Contractor shall follow the instructions of the Contracting Officer regarding the return and disposition of all TVA IT Equipment, and shall return all related Records to TVA's CTS.

5. Vulnerabilities

Prior to delivery to TVA of any Materials containing IT Work, Contractor shall provide summary documentation of any Vulnerability, the potential impact of such Vulnerabilities, and the status of Contractor's efforts to mitigate those Vulnerabilities. Contractor, at its expense, shall implement any corrective actions, compensating security controls, mitigations, or procedural workarounds, or any of the foregoing, which it recommends as necessary to address the identified Vulnerabilities.

6. Contractor Use of TVA Information System

- a. Contractor's use of a TVA Information System, authorized or unauthorized, constitutes Contractor's consent to TVA's monitoring of Contractor's or any Subcontractor(s)' use of the relevant TVA Information System. TVA may provide access to its Information System and all related equipment, networks, and network devices (including internet access) only to authorized users for authorized purposes. Contractor is responsible for ensuring that its employees, its Subcontractor(s), and their agents comply with any applicable TVA procedures, including TVA-SPP-12.001 Acceptable Use of Information Resources.
- b. Any Contractor employee or Subcontractor(s) that seek(s) access to a TVA Information System, or receives a TVA network ID ("Contractor Users"):
 1. first shall complete TVA Form 40156 "TVA Contractor and TVA Nuclear Badged Employee Check-In Form Hire and/or Unescorted Nuclear Access Request." Any employee who receives a TVA network ID, or access to a TVA Information System, must complete TVA Form 40157, "TVA Contractor Check-Out Form" upon the completion of his or her Work, or the termination of this Contract or the relevant subcontract(s), for any reason; and
 2. is subject to and must comply with: (i) the requirements of the United States Citizenship and Immigration Services (USCIS) related to a Contractor User's eligibility to work in the United States, (ii) Export Control Laws (as defined below), and (iii) TVA Police & Emergency Management security screening requirements, as applicable to each Site. Contractor must acquire, verify and maintain appropriate documentation (such as valid U.S. Social Security number(s) and USCIS Form I-9) on all Contractor Users who seek access to a TVA Information System.
- c. In order to have and maintain access to TVA Information Systems, all Contractor Users will receive an assigned TVA network ID and must (at minimum) successfully complete required cybersecurity training and testing within 14 days of their receipt of such network ID. After completion of the initial training, Contractor Users must complete required training on an annual basis (before their training anniversary date).
- d. Any Contractor User's use of a TVA's Information System constitutes Contractor's agreement to comply with such system's terms of use. TVA may deny or revoke a Contractor User's access to any TVA Information System if: (1) such Contractor User fails to successfully and timely complete any Security Awareness training, (2) TVA's information or TVA Information Systems are misused or abused, or (3) TVA's terms of service are violated. TVA will not pay or reimburse Contractor, and Contractor shall not claim against TVA (under the Changes Section of this Contract, or otherwise), for any delays, costs, or other expenses incurred by Contractor or Subcontractor(s), relating to TVA's revocation or denial of system access to a Contractor User.
- e. Contractor shall immediately notify the CTS or designee in writing whenever it disables electronic access by or for any of its employees or Subcontractor(s) to a Contractor's Information System, due to any action that temporarily or permanently severs the employment or subcontracting relationship (including, without limitation, termination, resignation, or suspension) within 24 hours of the action. Upon receipt of such notice from Contractor, TVA will immediately disable the relevant employee(s)' electronic access to TVA Information Systems.

7. Personally Identifiable Information and Privacy Act

If Contractor or its Subcontractor(s) obtain or have access to PII in connection with Work performed or delivered under this Contract, or if Work Product delivered to TVA contains modules or features that collect or the functionality of which could be updated to collect PII, Contractor shall comply with the TVA terms for Personally Identifiable Information and Privacy Act located at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>, as amended from time to time.

8. External Information Systems

For any Information Systems hosted externally to TVA, by Contractor, its Subcontractor(s), or by Cloud Service Provider(s), as part of or incident to Contractor's Work, Contractor shall comply with the TVA terms for External Information Systems located at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>, as amended from time to time.

9. Knowledge Transfer

- a. Upon request or as otherwise set forth in an applicable PO, Contractor shall furnish phase-in training to TVA or third-party contractor personnel upon the expiration or termination of this Contract for any reason, and cooperate with TVA to ensure an orderly and efficient transition of such Work.

10. Vulnerabilities

- a. Prior to the performance of any IT Work under this Contract, Contractor shall provide summary documentation of any Vulnerability, the potential impact of such Vulnerabilities, and the status of Contractor's efforts to mitigate those publicly disclosed Vulnerabilities. Contractor, at its expense, shall implement any corrective actions, compensating security controls, mitigations, or procedural workarounds, or any of the foregoing, which it recommends as necessary to address the identified Vulnerabilities.
- b. Consistent with Applicable Laws (specifically including NIST's definitions of "critical vulnerabilities" and "high vulnerabilities"), during the performance of any IT Work under this Contract, Contractor shall provide remediation or mitigate all identified Common Vulnerabilities and Exposures (CVE) from the date vulnerabilities are formally identified, where applicable: (i) Critical vulnerabilities within 7 calendar days, and (ii) High vulnerabilities within 15 calendar days, unless otherwise directed in writing by TVA's CTS. Furthermore, Contractor shall make commercially reasonable efforts to prioritize, minimize, and/or remediate any other Known Exploited Vulnerabilities as identified in the [Known Exploited Vulnerabilities Catalog maintained by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency \(CISA\)](#).

11. Cyber Security Incidents: Notices and Responses

- a. In addition to any notice required under this Contract, Contractor agrees to notify TVA promptly at (423) 751-4357 and then immediately thereafter by providing a written communication to TVA at CYBERSECURITY@TVA.GOV, whenever Contractor knows or reasonably believes that an act or omission by any source has compromised or may adversely affect or breach: (i) the cybersecurity of any IT Work, or (ii) the physical, technical, administrative, or organizational safeguards protecting Contractor's Information Systems (any of the foregoing, a "Compromise").
- b. Within seven days of notifying TVA of the Compromise, Contractor shall recommend actions that TVA should take on TVA Cyber Assets to reduce the risk of a recurrence of the same or a similar Compromise, including, as appropriate, the provision of action plans and mitigating controls. Unless TVA or its agents negligently caused the Compromise, Contractor is responsible for developing and implementing those action plans and mitigating controls, at its expense. Regardless of the cause(s) of the Compromise, Contractor shall coordinate with TVA in implementing the action plans and mitigating controls. In addition, Contractor will provide TVA guidance and recommendations for long-term remediation of any cyber security risks posed to TVA Cyber Assets, and any information necessary to assist TVA in any of its recovery efforts in response to a Compromise.

12. Remote Access

- a. If the IT Work involves establishment or maintenance of remote access to a TVA Cyber Asset (either interactive or to and from an external Cyber Asset), Contractor shall (i) comply with TVA Cyber Asset requirements and preconditions, and (ii) coordinate with TVA's CTS to establish controls that govern any such remote access to TVA Cyber Assets.

13. Product Lifecycle Notices and Documentation

- a. In addition to the warranties stated in the **Warranties and Product Integrity** Section, above, Contractor represents and warrants that the planned end-of-life date on Contractor's product roadmap for all IT Work provided under this Contract is later than the termination date of this Contract, including any optional extensions. Upon TVA's request, Contractor shall supply TVA with all applicable vendor manuals, white papers, support documents, and other documents related to its Product Lifecycle.
- b. Contractor shall notify TVA at least one year in advance of any changes to IT Work that would: (1) diminish, or require TVA to upgrade its Information Systems to maintain, the functionality of the IT Work, or (2) require TVA to transition to a different platform. If Contractor complies with the foregoing notice requirement, TVA may require that Contractor continue to support the then current configuration of the IT Work until this Contract's termination date, and the parties will negotiate an appropriate Change Notice, consistent with this Contract's **Changes** Section. If Contractor fails to provide the notice required by this subsection or informs TVA that it cannot or will not continue support of the existing configuration of IT Work, TVA may, in addition to any other remedies, terminate this Contract for default.

14. Reseller Responsibilities

- a. If Contractor is a reseller of IT Work ("Reseller"), then at a minimum, such Reseller shall ensure that the separate agreement between Reseller and the original equipment manufacturer or service provider ("OEM") of the IT Work: (1) imposes obligations on the Reseller and OEM at least as stringent as those stated in this Contract, and (2) does not impose obligations on TVA that are not stated in this Contract. If and as applicable, Reseller also must notify the OEM that this Contract supersedes any conflicting terms in the separate agreement between Contractor and the OEM.

22. BUSINESS ETHICS

- a. Definitions as used in this Section:
 1. "Agent" means any individual, including a director, officer, employee, or an independent contractor authorized to act on behalf of the organization.
 2. "Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment; and similar positions).
 3. "Subcontract" means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.
 4. "Subcontractor" means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.
- b. Code of Business Ethics and Conduct
 1. Within 30 days after the Effective Date of a PO, unless TVA's Contracting Officer establishes a longer time period in writing, Contractor shall (i) have a written code of business ethics and conduct; and (ii) make a copy of the code available to each employee engaged in performance of this Contract.

2. Contractor shall (i) exercise due diligence to prevent and detect criminal conduct; and (ii) otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.
- c. Disclosure Requirements
1. Contractor shall timely disclose, in writing, to TVA's Office of Inspector General (TVA's OIG), with a copy to TVA's Contracting Officer, whenever, in connection with the award, performance, or closeout of this Contract or any subcontract thereunder, Contractor has credible evidence that a principal, employee, agent, or subcontractor of Contractor has committed (i) a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in title 18 of the United States Code; or (ii) a violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733); provided that if Contractor has credible evidence that TVA's Contracting Officer is implicated in such violation of Federal criminal law, the written disclosure shall be made to TVA's OIG with a copy to TVA's Vice President, Supply Chain.
 2. TVA, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to Contractor's disclosure as confidential where Contractor has marked the information as "confidential", "proprietary", "sensitive", or with words of similar meaning and effect. To the extent permitted by law and regulation, such information will not be released by TVA to the public pursuant to a Freedom of Information Act request, 5 U.S.C. § 552, without prior notification to Contractor. TVA may transfer documents provided by Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.
- d. Nothing in this section shall be construed as (i) requiring Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; (ii) requiring any officer, director, owner, or employee of Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; (iii) restricting Contractor from conducting an internal investigation, or defending a proceeding or dispute arising under this Contract or related to a potential or disclosed violation.

23. CERTIFICATION OF DEBARMENT OR SUSPENSION

- a. As of the effective date of each PO issued hereunder, and any amendment(s) thereto, Contractor certifies to the best of its knowledge and belief that it and its principals:
1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded from procurement or non-procurement transactions by any Federal department or agency;
 2. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, State, or local government contract; been in violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
 4. Have not within a three-year period preceding this application had one or more government contracts (Federal, State, or local) terminated for cause or default.
- b. Contractor shall promptly disclose to TVA's Contracting Officer, with a copy to TVA's Office of Inspector General, the occurrence of any event that would cause Contractor not to be able to make the foregoing certification.

c. The terms "debarment," "debarred," "suspended," "ineligible," "principal," "procurement," "non-procurement," and "voluntarily excluded," as used in this section, have the meanings set out in 48 C.F.R. § 2.101 and 2 C.F.R. part 180.

24. PUBLIC COMMUNICATIONS

a. Contractor and Subcontractor(s) must obtain the written approval of TVA's Contracting Officer prior to making any public disclosures or communications, relating to or referencing this Contract itself, Work performed under this Contract or TVA, including, without limitation:

1. Any oral, written, or electronic communication on or through social media, press, or news release(s), marketing materials, or comparable materials;
2. Any photographs, tapes or video recordings, of real or personal property owned or controlled by TVA, and the public communication or posting of such photographs, tapes or videos (or related information or images) in any manner or through any written or electronic media (including on any publicly accessible website); or
3. Contractor's or Subcontractor(s)' business relationship with TVA, or any related project.

b. TVA, in its sole discretion, may approve or reject proposed public communication(s), except to the extent a proposed communication or disclosure is specifically required by Applicable Laws.

25. TERMS INCORPORATED BY REFERENCE

To the extent applicable to this Contract or the Materials, the regulatory provisions listed at TVA's Supplier Connections at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses> under "Referenced Clauses" are incorporated in their entirety into this Contract.

26. ENTIRE AGREEMENT

This Contract, PO(s) issued hereunder, and any attachments hereto, embody the entire agreement between TVA and Contractor, and supersede all other communications, either oral or written, with respect to the subject matter hereof. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding not set forth herein. No amendments or modifications shall be valid unless incorporated into this Contract in writing. Specifically, any reference to a Contractor proposal or quote is solely for the purpose of incorporating the description and specifications of the Materials contained therein to the extent that such description and specifications do not conflict with the description and specifications on the face of this Contract or the relevant PO(s). By acknowledging receipt of this Contract or any PO(s) issued hereunder, or by shipping the Materials for which Contractor will invoice TVA pursuant to these terms and conditions, Contractor agrees to these terms and conditions.