

GENERAL TERMS AND CONDITIONS FOR SERVICES

1. DEFINITIONS

"Buyer" means Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, or Salt River Valley Water Users' Association, a corporation organized under the laws of the Territory of Arizona, as applicable. "Contract" or "Contract Documents" means the Purchase Order, the Request for Proposal and these General Terms and Conditions for Services, and all amendments thereto. "Contractor" means the party providing the Items and Work, as identified in the Contract Documents. "Items" means any or all of the goods, products, materials, supplies and equipment to be provided as part of the Work to be performed, whether or not specifically identified as such in the Contract Documents. "Proposal" means the written offer, if any, of Contractor to provide the Items and to perform the Work. "Purchase Order" means the document issued by Buyer to Contractor, identified as such, together with any instructions, addenda, schedules or other materials delivered concurrently with such document. "Request for Proposal" means any document, including drawings and designs or letters, issued by Buyer that describes the nature and scope of the Work. "Work" means all labor and services, including any applicable installation, construction and contracting work, to be provided by Contractor pursuant to the Contract.

2. ACCEPTANCE OF PURCHASE ORDER

Buyer's issuance of a Purchase Order shall constitute an offer to enter into a contract with Contractor on the terms and conditions set forth in the Contract Documents. Acceptance of the offer extended by the Purchase Order must be made on, and is expressly limited to, the exact terms and conditions contained in the Contract Documents. If Contractor submits a counteroffer or any deviations from or exceptions to the Contract Documents, then Contractor shall not start the Work unless and until the counteroffer, deviations or exceptions have been agreed to in writing by Buyer. If Contractor starts the Work without Buyer's written agreement to the counteroffer, deviations or exceptions, Contractor shall be deemed to have accepted the terms of the Contract Documents. Buyer's acceptance of or payment for Items delivered or Work performed shall be subject to all of the provisions of the Contract Documents and only those provisions, and shall not constitute a contractual acceptance of any additional or different terms and conditions proposed by Contractor. If a Proposal is referenced in the Purchase Order, the Proposal is incorporated into the Contract only to specify and describe the Items and Work and to set forth the prices and/or the rates to be charged by Contractor for the Items and Work, and only to the extent that such descriptions, prices and rates are consistent with the Contract Documents. No inconsistent terms in the Proposal shall be incorporated into the Contract unless Buyer specifically identifies and agrees in writing to such inconsistent provisions.

3. PRECEDENCE OF DOCUMENTS

The order of precedence of the Contract Documents is: first, these General Terms and Conditions for Services; second, the Purchase Order; and third, the Request for Proposal.

4. ETHICS POLICY

By accepting the Contract, Contractor agrees to do business in accordance with Buyer's business ethics policy, which provides that members of Buyer's governing bodies, its officers and employees and their family members shall not accept any gift or benefit offered in an attempt to influence a purchasing decision. Contractor's offering or giving of such "gifts", whether or not made with intent to obtain special consideration, shall be a material breach of contract entitling Buyer to cancel any contracts with Contractor. Contractor agrees to report the solicitation of gifts or any item of value by anyone representing Buyer to Buyer's Corporate Audit Services Department at the following address: Salt River Project, P.O. Box 52025, ISB444, Phoenix, Arizona 85072-2025.

5. PRICES; INVOICES; PAYMENT

Buyer shall compensate Contractor based on the prices and/or at the rates stated in the Purchase Order, except as may be otherwise provided, qualified, or limited herein. Contractor agrees to provide correct and complete invoice(s) at the time of completion of the Work, or as frequently as otherwise agreed, to Buyer's Accounts Payable Department at the address indicated on the Purchase Order. Invoices shall reference the Purchase Order number, the location of the Work and Buyer's project manager; shall describe the Items and Work; and shall state separately all taxes, transportation charges, prices of Items and labor charges, as applicable. The time for payment of invoices, as specified on the Purchase Order, or for accepting any prompt payment discounts offered, shall run from the date that Buyer receives a correct invoice.

6. TAXES

Buyer will reimburse Contractor for any lawfully imposed federal, state, tribal and local excise, sales, transaction privilege, gross receipts or other similar taxes (but not net income or franchise taxes) levied on Contractor as a result of the Contract ("Taxes"); provided, however, Buyer shall not be liable to Contractor for any amounts billed to Buyer for Taxes later than six months after the date of the original underlying invoice, other than Taxes assessed as a result of the disallowance of a claim of exemption made by Contractor as Buyer's agent. If the Work is performed outside of the State of Arizona, the Purchase Order will contain any special tax instructions to Contractor. The foregoing provisions regarding reimbursement of Taxes shall not apply if the Contract uses lump-sum or fixed pricing, which shall be inclusive of all Taxes. If any Items are identified by Buyer as exempt from tax, then as to the acquisition of those Items, Contractor is Buyer's agent and shall purchase those Items in Buyer's name, expressly identifying itself as agent for Buyer, and pursuant to a claim of exemption made in Buyer's name. Contractor shall provide to Buyer all invoices, warranties and other documentation relating to the Items. Contractor shall not purchase any Items as Buyer's agent unless expressly required by the Contract. If, subsequent to invoicing, Contractor is assessed Taxes as the result of the disallowance of a claim of exemption made by Contractor as Buyer's agent, Contractor shall promptly consult with Buyer regarding contesting such claim. Contractor shall take such

interim steps as may be necessary to avoid prejudicing the right of either party to resist the tax claim, and shall promptly advise Buyer of the steps taken. If Buyer gives Contractor timely written notice that Buyer wishes to contest the tax, Contractor, if permitted by law, shall not pay the tax except under protest, and shall (a) subrogate Buyer to all rights that Contractor may have with respect to any action or proceeding relating to such taxes, or (b) permit Buyer to control the manner of resisting the tax or asserting claims or actions for refund and interest arising therefrom. Contractor shall cooperate, at Buyer's expense, in any proceeding undertaken by Buyer or at Buyer's direction to challenge the tax. Contractor's failure to comply with the terms of this Section shall relieve Buyer of any obligation to reimburse Contractor for the tax finally determined to be payable.

7. CHANGES

At any time, by written notice to Contractor and without notice to sureties or assignees, if any, Buyer may make changes in the Items or Work, or the time, manner, method or place of performance hereunder. If such change increases or decreases the cost or time required for performance, an equitable adjustment shall be made in the price or time for performance, as applicable. Any claim for adjustment under this Section must be asserted by written notice to Buyer within 30 days after notice of the change, or the claim is waived.

8. EXPEDITING

At Buyer's option, the Items furnished under the Purchase Order shall be subject to expediting. If requested, Contractor shall (a) supply schedules and progress reports for Buyer's use in expediting; and (b) shall arrange, at times convenient to it, reasonable access to Contractor's plants and, if applicable, those of Contractor's major suppliers by Buyer's personnel for expediting purposes.

9. TIME OF THE ESSENCE

Time is of the essence of this Contract. Adherence to the Contract schedule and completion of the Work on or before the dates specified in the Contract Documents is a material obligation of Contractor. Contractor shall furnish and maintain ample and competent labor, supervision and management, as well as ample resources and facilities at the Jobsite to meet the Contract Schedule. If at any time the Work is behind schedule, Contractor shall immediately put into effect a corrective recovery program acceptable to Buyer for getting the Work back on schedule ("Corrective Recovery Program"). The Corrective Recovery Program shall be subject to Buyer's review and modification.

10. FORCE MAJEURE

If any delay in Contractor's performance is caused by a Force Majeure Event (as defined below), the time for performance shall be extended for the period of such occurrence. As used herein, "Force Majeure Event" means acts of God; explosion; fire; flood; drought; epidemic; earthquake; riot; insurrection; blockade; war; terrorism; or other hostilities; strike, lockout or other industrial disturbance; act or restraint of governmental authority whether valid or invalid; action or non-action by any such authority which causes the lapse of necessary governmental authorizations, permits, licenses, certificates or approvals; that is reasonably beyond the control of Contractor and that Contractor is not able to overcome by the exercise of

reasonable diligence. Contractor shall notify Buyer within 10 days of the occurrence of a Force Majeure Event, and the failure of Contractor to so notify Buyer will be deemed a waiver of any claim for an extension of time for performance by Contractor. During the period of Contractor's delay or failure to perform, Buyer may purchase goods or services from other sources and reduce its schedules and/or releases to Contractor by such quantities, without any liability to Contractor. If price escalation is provided for in the Contract, the date that such escalation is to occur shall be extended to account for any delay in time of performance whether or not attributable to a Force Majeure Event, unless Buyer suspends performance pursuant to Section 12 below.

11. DEFAULT

If Contractor defaults in its performance, Buyer shall be entitled to cancel all or any part of the Contract. If the Contract is terminated or cancelled due to Contractor's default or breach, Buyer shall be entitled to recover the cost of completion of the project, plus reasonable compensation for any costs incurred due to any delay in performance, in addition to any other applicable remedies. Contractor shall pay Buyer such costs within 30 days after written demand by Buyer.

12. CANCELLATION; SUSPENSION

At its discretion, Buyer may cancel all or any part of the Contract at any time (including during a Force Majeure Event) by written notice to Contractor, and Buyer shall pay Contractor an amount for Work and Items furnished to and accepted by Buyer that is consistent with the pricing set forth in the Contract Documents, plus Contractor's cost of non-standard materials on hand specifically for the purpose of the Contract and Work in progress, which amount shall not exceed the original price under the Contract. If so instructed by Buyer, Contractor shall deliver such Work in process and non-standard materials to Buyer or Buyer's assignee. Buyer will make no payments for Items, Work in process, or materials fabricated or procured by Contractor in amounts in excess of those authorized in Buyer's delivery releases. Any unapplied payments made by Buyer for Work and Items shall be credited against the amount due to Contractor, and any payment in excess of the amount due to Contractor shall be refunded to Buyer. Buyer may suspend the Work, either in whole or in part, by written notice to Contractor, and Buyer shall reimburse Contractor for its actual costs of storage of materials and shut-down and start-up of Work in progress at the time of the suspension notice. Any claim for adjustment not asserted by Contractor by written notice to Buyer within 30 days after the notice of cancellation or suspension will be deemed waived.

13. WAIVER

The waiver by either party of any breach or failure to perform in accordance with the Contract, or the failure of a party to exercise or any delay in exercising any rights or remedies, or the failure of a party to notify the other properly in the event of a breach shall not be construed as a waiver of any other term or condition herein, or of any subsequent or continuing breach of the same or any other term or condition. Buyer's use or acceptance of any Item delivered or Work performed pursuant to the Contract shall not be construed as a waiver of any rights of Buyer arising out of Contractor's prior or subsequent failure to comply with any of the terms and conditions of the Contract.

14. INSPECTION; REJECTION; ACCEPTANCE

Contractor shall perform the Work in accordance with those standards of care, skill and diligence and customarily accepted practices and procedures normally provided by a professional in the performance of the same or similar work. Buyer shall have the right to inspect and test all Work performed and Items furnished at any time prior to completion of performance, and shall make a final inspection within a reasonable time after completion of performance. Such tests and inspections shall be as specified by Buyer and shall be held at a time and in a manner acceptable to Buyer. Successful completion of Buyer's final inspection, as determined solely by Buyer, shall constitute acceptance of the Work and Items ("Acceptance"). Payment of the Contract price, or any part thereof, shall not constitute Buyer's Acceptance or release Contractor from its responsibility to perform its obligations under the Contract.

15. TITLE; RISK OF LOSS

Except for Items acquired by Contractor as Buyer's agent, title and risk of loss to the Work and Items, or any part thereof, shall remain with Contractor until Acceptance by Buyer of the Work and Items, or any part thereof. Title and risk of loss shall pass only as to the Work or Items, or any part thereof, that are accepted by Buyer.

16. WARRANTY

Contractor warrants that the Work and Items shall be: (a) completed in full conformance with the description thereof set forth in the Contract Documents; (b) free from defects in design, material, workmanship and inspection; (c) suitable for the purposes intended, whether expressed or reasonably implied; and (d) of the best quality. If, within one year after the date of Acceptance, or during such longer warranty period agreed to between Buyer and Contractor, the Work or any part thereof does not conform to these warranties, notwithstanding Buyer's Acceptance, prior inspections or prior knowledge of the non-conformity, or its substantiality or ease of discovery, and Buyer so notifies Contractor within a reasonable time after discovery of the non-conformity, Contractor shall, at its sole expense, promptly correct such non-conformity. Contractor warrants and shall forever defend that it has and is transferring good title to the Items. Contractor's liability shall extend to all damages proximately caused by the breach of any warranty. All warranties provided in the Contract shall be assignable by Buyer. Contractor hereby assigns to Buyer all warranties relating to the Items and, if Contractor cannot assign such warranties, Contractor shall, at Buyer's request, enforce such warranties on Buyer's behalf.

17. RIGHT TO USE WORK OR ITEMS REQUIRING CORRECTIONS

If Buyer discovers that the Work or Items or any part thereof requires correction, Buyer shall nevertheless have the right to use the completed Work or Items or part thereof until such time as it is convenient to Buyer for such Work or Items to be removed from service for correction. Buyer's right to use the completed Work or Items may be limited in such manner or degree as Contractor may specify in writing as being reasonably necessary to protect the Work or Items until corrections can be made.

18. SHIPMENT

Contractor shall arrange and be responsible for the shipment and receipt of all Items required to be furnished by Contractor. Contractor shall not charge for boxing, crating, packaging or loading or for transportation costs other than as specifically agreed to in the Contract. Contractor shall pay the cost of premium transportation costs incurred to enable Contractor to meet scheduled deliveries, unless Buyer otherwise agrees in writing. Items shall be packed to prevent damages from weather and transportation, taking into account the transportation means to be used. A packing list shall accompany each shipment showing Buyer's Purchase Order number, listing only the Items covered by the Contract and the number of containers in which such Items are packed. If, after authorization by Buyer, Contractor purchases Items as Buyer's agent, shipping receipts, original bills of lading, express receipts and air bills shall be sent to Buyer on the date the Items are shipped.

19. ORDER OF PERFORMANCE OF WORK

Buyer and other contractors and subcontractors may be working at the site of the Work during the performance of the Contract. Buyer may direct Contractor to schedule or reschedule the order of performance of the Work in such a manner as to reasonably avoid interference with the performance of work by Buyer or other contractors or subcontractors.

20. NO PAYMENT FOR ANCILLARY WORK

No additional compensation shall be paid to Contractor for providing any service, facility, thing, or material ancillary to the Work, unless separate payment therefor has been specifically provided for in the Contract Documents. Compensation for all services, facilities, things, or materials necessary or required to execute the Work in accordance with the provisions of the Contract is included in the prices provided for in the Contract Documents.

21. USE OF PREMISES

In those instances where the Work is being performed on Buyer's premises, Buyer shall provide Contractor a reasonably sized and located area for the storage of materials and equipment. Contractor shall confine its equipment, materials, and the operations of its workers as specified by Buyer, and Contractor shall not unreasonably congest or obstruct the premises with material and equipment.

22. WORK AREA

Contractor shall, from day to day, clean up the Work area and remove all waste materials and rubbish, leaving the Work area clear of all obstructions. When the Work is finished, Contractor shall remove from the Work area all tools and machinery owned or rented by Contractor and all rubbish and material resulting from the Work, and shall leave the premises in a safe and clean condition. If applicable, Contractor shall dispose of refuse from the site in a landfill approved by Buyer. If Contractor fails to perform clean-up work to Buyer's reasonable satisfaction, Buyer may perform such work and charge and set-off against amounts due to Contractor all reasonable costs incurred in doing so. Contractor, at its sole expense and to Buyer's satisfaction, shall repair all damage done by Contractor at the jobsite to the work or property of others.

23. INDEMNITY

Contractor shall indemnify and hold harmless (and, upon notice so requiring from Buyer, also defend) Buyer and members of its governing bodies, its officers, agents and employees (the "Indemnified Parties") for, from and against any and all claims, demands, suits, costs of defense, reasonable attorneys' fees, witness fees of any type, losses, damages, expenses, fines, penalties, and liabilities (collectively, "Losses") for injury to or death of any person or persons, including employees of Buyer or of Contractor or its subcontractors, or damage to property, including property of Buyer or of Contractor or its subcontractors, to which the Indemnified Parties may be put or subjected by reason of any act or omission, on the part of Contractor, any subcontractor or supplier of Contractor, or any of the directors, officers, partners, members, managers, agents, servants or employees of Contractor, or of its subcontractors or suppliers. Contractor's obligations under this Section shall extend to indemnify and hold harmless (and, upon notice so requiring from Buyer, also defend) the Indemnified Parties where they are allegedly concurrently negligent with Contractor, any subcontractor or supplier of Contractor, or any of the directors, officers, partners, members, managers, agents, servants or employees of Contractor, or of its subcontractors or suppliers, in causing or contributing to the liability causing event, but shall not extend to any liability that has been judicially determined to have been caused by the sole negligence of Buyer. Contractor shall also indemnify and hold harmless (and, upon notice so requiring from Buyer, also defend) the Indemnified Parties for, from and against any and all Losses for contractual claims arising out of Contractor's agreements with third parties.

24. INSURANCE

Without limiting any liabilities or any other obligations of Contractor, Contractor shall provide and maintain, with forms and insurers acceptable to Buyer, and until all obligations under the Contract are satisfied, the minimum insurance coverages, as follows:

24.1 Workers compensation insurance with minimum statutory limits to cover obligations imposed by applicable federal and state statutes.

24.2 Employer's Liability insurance with a minimum limit of \$1,000,000.

24.3 Commercial general liability insurance with a minimum combined single limit of \$2,000,000 each occurrence. The policy shall include coverage for bodily injury liability, property damage liability, personal injury liability, contractual liability for liability assumed under the Contract or other associated contracts, broad form property damage, and completed operations for a period of two years after Acceptance. The policy shall include "X" (explosion), "C" (collapse) and "U" (underground) coverages, as required by Buyer, and shall contain a severability of interests provision.

24.4 If Contractor subcontracts any part of the Work, services or operations under the Contract, Contractor shall purchase and maintain for the benefit of Buyer at all times during the performance of the Work under the Contract, Owner's and Contractor's Protective Liability insurance for bodily injury and property damage with a minimum limit of \$2,000,000 each occurrence, unless Buyer agrees in writing that such coverage is not required by the nature of the Work.

24.5 Comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to

vehicles assigned to or used in the performance of the Work, whether owned, hired or non-owned.

24.6 If required by Buyer, Professional Liability insurance with a minimum combined single limit of \$1,000,000 each occurrence. Contractor shall maintain such coverage for a period of five years after Acceptance.

24.7 If required by Buyer, Aircraft Public Liability insurance covering airplanes and rotorcraft whether owned, hired or non-owned with a combined single limit for bodily injury and property damage of not less than \$10,000,000, including passenger liability coverage.

24.8 If required by Buyer, "All Risk" builders risk insurance covering the Work, including the interest of Buyer, with limits adequate to cover the value of the Work installed and Items while in transit and while stored at the jobsite, which affords coverage from the time the Work is commenced until Acceptance.

24.9 Any other coverages which may be reasonably required by Buyer including installation floaters and Contractors equipment.

24.10 The policies required by Sections 24.3, 24.5, 24.7 and 24.8 shall be endorsed to include Buyer and members of its governing bodies, its officers, agents and employees as additional insureds and shall stipulate that the insurance afforded for Buyer and members of its governing bodies, its officers, agents and employees shall be primary insurance and that any insurance carried by Buyer and members of its governing bodies, its officers, agents and employees shall be excess and not contributory insurance.

24.11 Contractor and its insurers providing the required coverages shall waive all rights of subrogation against the Indemnified Parties.

24.12 Prior to commencing the Work, Contractor shall furnish Buyer with Certificates of Insurance as evidence that policies providing the required coverages, conditions and limits are in full force and effect, by sending such Certificates of Insurance directly to the Authorized SRP Procurement Agent at the address stated on the Purchase Order. Such certificates shall provide that not less than 30 days advance notice of cancellation, termination or alteration shall be sent directly to the Authorized SRP Procurement Agent at the address stated on the Purchase Order.

24.13 In the event of a loss for which Buyer may have coverage under one of the policies required by the Contract, Contractor shall, upon Buyer's request, provide Buyer with a certified copy of the applicable policy.

24.14 Costs for coverages maintained by Contractor in excess of or in addition to those required shall not be charged to Buyer unless otherwise agreed to by Buyer.

24.15 The insurance policies may provide coverages that include deductibles or self-insured retentions. Contractor shall be solely responsible for deductibles and/or self-insured retentions, and Buyer, at its option, may require Contractor to secure the payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

25. PATENTS; COPYRIGHTS

If the Work and any Items supplied by Contractor are produced or performed to designs not originated by Buyer, Contractor warrants that the sale and use of all such Work or Items will not infringe any patent or copyright or constitute the unlawful use of trade secrets. Contractor shall indemnify, defend and hold harmless the Indemnified Parties against all Losses for actual or alleged infringement of any United

States or foreign patent or copyright, or for claims arising from unlawful use of trade secrets, related to the sale and use of the Work and Items. If the sale or use of all or any part of the Work or Items is held to constitute an infringement of any patent or copyright or the unlawful use of trade secrets, and the use of any or all of them is enjoined, Contractor shall immediately, at its own expense, either procure for Buyer a license for continued use of any such Work or Items, replace them with substantially equal but non-infringing Work or Items, modify them such that they become non-infringing, or remove them and refund the purchase price and pay all costs incurred by Buyer in connection with the removal and replacement of the Work or Items. Contractor agrees that all patentable or copyrightable ideas, writings, drawings, inventions, designs, parts, machines or processes developed as a result of, or in the course of, the Work performed by Contractor or any of its employees or subcontractors shall be the sole property of Buyer. Contractor hereby assigns all rights in such intellectual property to Buyer, and shall supply (and cause its employees and subcontractors to supply) all assistance reasonably requested in securing for Buyer's benefit any patent, copyright, trademark or service mark registration or other evidence of ownership of any such intellectual property, and shall provide full information regarding any such item and execute all appropriate documentation prepared by Buyer in applying for or otherwise registering, in Buyer's name, all rights to any such item. Buyer may grant licenses to make, use, buy or sell any product or service derived from the Work.

26. AUDIT

Buyer shall have the right, at its own expense, to designate its own employee representatives, independent contractors or agents to audit and to examine, inspect and copy Contractor's written policies and procedures, subcontract files (including proposals of successful and unsuccessful bidders), all documents, books, records, data compilations on any storage media, computer programs, or other evidence (collectively, "Contractor's Records") deemed necessary by Buyer to substantiate any of Contractor's invoices and to audit for compliance with all terms and conditions of the Contract. Any such audit shall be undertaken at reasonable times. Contractor shall fully cooperate with any such audits, and Buyer or its designee shall be afforded access to all of Contractor's Records. Contractor shall provide Buyer with adequate and appropriate workspace in which to conduct its audits. The right to audit shall extend for a period of three years following the date of final payment by Buyer hereunder, during which period Buyer shall complete any audit that it deems appropriate. Unless a longer period is required by law, Contractor shall preserve all of Contractor's Records supporting Contractor's invoices and compliance with the terms of the Contract until the later of (a) completion of any audits and resolution of all disputes arising therefrom, or (b) three years following the date of final payment by Buyer hereunder. Buyer shall notify Contractor in writing if, as a result of an audit, Buyer determines that Contractor's Records do not support one or more of Contractor's invoices. Contractor shall respond to such notification within 30 days, and the parties shall use good faith efforts to resolve the disagreement, if any. Upon resolution of any disagreement in favor of Buyer, the amount, with interest thereon at the rate of 1.5% per month, compounded monthly

(or the maximum interest permitted by law, if any, whichever is less), computed from the due date of the questioned invoice to the date of reimbursement to Buyer, shall be, at Buyer's option, either (a) paid to Buyer by Contractor within 30 days, or (b) setoff against any amount owed by Buyer to Contractor, with any excess not setoff refunded to Buyer as provided in (a) above. Contractor shall require all subcontractors of any tier, insurance agents, and material suppliers to comply with the provisions of this Section by insertion of the requirements of this Section in a written agreement between Contractor and the subcontractor, insurance agent or material supplier.

27. INDEPENDENT CONTRACTOR; NO THIRD PARTY BENEFICIARIES

Contractor shall have the status of, and perform the Work as, an independent contractor in accordance with its own means and methods, and is not a co-venturer, agent, employee or representative of Buyer. There are no third party beneficiaries of the Contract.

28. SAFETY

Contractor shall take all safety precautions and shall furnish and install all safeguards necessary for the prevention of accidents, fires and release or creation of environmental pollutants, and adhere to safe construction practices specified by the National Electric Code and all other applicable industry standards. In connection therewith, Contractor shall provide all necessary safety-related tools and equipment for its work crews, maintain all fences, barricades, lights, shoring and other protective structures or devices necessary for the safety of workers, equipment, the public and property, and maintain pumping facilities as required, including power for keeping the site, excavations and structures free from accumulations of water at all times, whether from underground seepage, rainfall, drainage or broken lines. Contractor shall provide fire extinguishers on the job site during the course of the Work of the type and sizes recommended by the National Fire Protection Association to control fire resulting from the particular work being performed, and Contractor shall instruct its employees in the use of such fire extinguishers. Fire extinguishers shall be placed, ready for instant use, in the immediate vicinity of the work being performed. Contractor shall abide by and require all of its employees, subcontractors and agents to abide by Buyer's safety requirements, including Buyer's Contractor Safety Management Program. By executing the Contract, Contractor acknowledges receipt of a copy of Buyer's Contractor Safety Management Program, and agrees that the Contractor Safety Management Program does not waive or abrogate in any manner Contractor's responsibility and obligations to Buyer hereunder.

29. CONFIDENTIALITY

Contractor shall retain in confidence and not divulge or allow to be divulged to third parties, intentionally or through Contractor's negligence or that of Contractor's agents or employees, information relating to Buyer's operations that Contractor obtains in connection with performance of the Work or information that Buyer has identified as proprietary or confidential. Contractor shall not refer to Buyer in any advertising or publication without Buyer's prior written consent.

30. LIENS

If, by virtue of supplying all or any portion of the Items or performing all or any portion of the Work, a third-party files a lien against the premises upon which the Work is performed or the Items are installed, Contractor shall, promptly on demand of Buyer and at Contractor's expense, take any and all action necessary to cause any such lien to be released or discharged. If Contractor fails to cause such lien to be released or discharged within five days after Buyer's demand, Buyer may satisfy the amount of the lien and set-off all amounts paid in satisfying the lien against amounts due to Contractor from Buyer under this Contract or any other agreement between Buyer and Contractor.

31. SURETY BONDS

If requested by Buyer, Contractor shall furnish a performance bond, a labor and materials payment bond and/or a fidelity bond as security for the faithful performance and payment of all of Contractor's obligations under the Contract. Each bond shall be in an amount at least equal to the Contract price and written by a surety approved by Buyer. Each bond shall be accompanied by a certified copy of such surety's agent's authority to act. Each bond shall contain a waiver of all rights under A.R.S. 12-1641. At Buyer's option, the labor and materials payment bond, together with a copy of the Purchase Order and any other document deemed necessary by Buyer may be recorded in the office of the County Recorder pursuant to A.R.S. 33-1003, prior to the performance of the Work or furnishing of any Items.

32. COMPLIANCE WITH LAWS; EQUAL OPPORTUNITY

Contractor shall comply with applicable federal, state, tribal and local laws, rules, regulations, executive orders, permits and other authorizations. Contractor warrants that all Items supplied and Work performed hereunder have been sold, produced, delivered and furnished in strict compliance with all applicable federal, state, tribal and local laws, rules, regulations, executive orders, permits and other authorizations to which the Items, Work and Contractor are subject. Upon request, Contractor shall execute and deliver to Buyer such documents as may be required by Buyer to effect or evidence compliance with such laws, rules, regulations, executive orders, permits and other authorizations. To the extent applicable, the Equal Opportunity Clause provided for in the Regulations issued pursuant to Executive Order 11246; the Affirmative Action Clause for Handicapped Workers provided for in the Regulations issued pursuant to the Rehabilitation Act of 1973; and the Affirmative Action Clause for Disabled Veterans and Veterans of the Vietnam era provided for in the Regulations issued pursuant to the Vietnam Veterans Adjustment Act of 1974, are hereby incorporated by reference as though fully written herein. The provisions of this Section shall be included in every subcontract unless exempted therefrom.

33. PROVISION OF MATERIAL SAFETY DATA SHEETS

If Contractor is providing any chemical substance, Contractor shall furnish a Material Safety Data Sheet (MSDS) with each shipment for every chemical Item purchased hereunder in a format that complies with federal and state OSHA regulations. Prior to providing substitute chemicals or chemicals with changes in composition, Contractor shall provide two weeks written notice to Buyer

and shall not ship such Items or use them in performing the Work without the prior authorization of Buyer.

34. ARCHAEOLOGICAL RESOURCE PROTECTION

If an archeological site is discovered during performance of the Work, Contractor shall immediately stop the Work, inform Buyer of such site and, consistent with Buyer's policy, cooperate in performing archaeological mitigation measures. Any mitigation measures that result in costs or delays to Contractor shall be treated as changes in the Work. Contractor shall make reasonable efforts to prevent the collection of artifacts on or near the job site.

35. COSTS; FEES

Should either party sue to enforce its rights herein, the prevailing party shall be entitled to reimbursement from the other party of reasonable attorneys' fees and litigation costs and expenses, including witness fees of any kind, in an amount to be determined by the court.

36. ASSIGNMENT

Except as otherwise provided in this Contract, neither party shall assign or delegate performance under the Contract, nor assign any interest in it without the prior written consent of the other party.

37. ENTIRE AGREEMENT; AMENDMENT

The Contract Documents constitute the entire agreement between the parties with respect to the subject matter thereof, and no understandings or obligations not set forth therein shall be binding upon them. No amendment of the Contract Documents shall be valid unless it is in writing, makes specific reference, by Purchase Order Number, to the Purchase Order being amended, and is signed by duly authorized representatives of both parties. The Contract Documents shall not be modified, amended or altered by Contractor's preprinted forms. No verbal agreements or conversations with any officer, agent or employee of Buyer or Contractor shall affect or modify any of the terms or obligations set forth in the Contract Documents.

38. SEVERABILITY OF PROVISIONS

If any part of the Contract is unenforceable, such unenforceability shall not extend beyond the part affected. Unless otherwise agreed to by the parties, the unaffected part of the Contract shall continue in full force and effect and shall be binding upon the parties hereto.

39. NOTICES

Any notice, demand or request provided for in the Contract, or served, given, or made in connection with it, shall be in writing and shall be delivered in person, by courier service providing next-day delivery, by email or facsimile, or sent by United States mail, postage prepaid, to the person and to the address specified below:

To Buyer: the original shall be delivered to the address and attention of the Authorized SRP Procurement Agent shown on the Purchase Order. A copy shall be delivered to: Salt River Project, Manager of Procurement Services, CUN200 1511 N. Project Drive, Tempe, Arizona 85281-1206

To Contractor: At the address shown on the Purchase Order.

If sent by mail, notices shall be effective three business days after deposit in the mail. If hand-delivered or sent by facsimile or email, notices shall be effective upon delivery.

40. GOVERNING LAW; UCC TO APPLY; JURISDICTION AND VENUE

This Contract shall be governed by and construed in accordance with the laws of the State of Arizona, without regard to conflicts of law principles. Except as otherwise provided in the Contract or in statutes pertaining to Buyer, Contractor and Buyer shall each have all remedies afforded by the Uniform Commercial Code, as adopted by the State of Arizona. All remedies provided for in this Contract shall be cumulative and shall be in addition to all other remedies available to either party at law or in equity. Buyer and Contractor agree that any action, suit, or proceeding arising out of or relating to this Contract shall be initiated and prosecuted in a state or federal court of competent jurisdiction located in Maricopa County, Arizona, and the parties irrevocably submit to the jurisdiction and venue of such court.

41. SURVIVAL OF TERMS

Cancellation, expiration, or termination of this Contract shall not relieve the parties of obligations that by their nature should survive such cancellation, expiration, or termination, including audit rights, confidentiality, warranties, remedies, or indemnities.

42. WAIVER OF RIGHT TO JURY TRIAL

To the fullest extent permitted by law, each party hereby irrevocably waives any and all rights to a trial by jury, and covenants and agrees that it will not request a trial by jury, with respect to any legal proceeding arising out of or relating to this Contract.

43. CONSTRUCTION

If a question of interpretation arises, the Contract shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of the Contract. Any reference to any statute shall be deemed to refer to the statute, as amended, and to all rules and regulations promulgated thereunder, as amended, unless the context requires otherwise. The word "include" or "including" means include or including, without limitation.