

April 24, 2023 NHGC



**REQUEST FOR PROPOSAL**

**Consultant-NH Energy Data Platform: Backend Review**

**Doc3979189318**

**April 24, 2023**

**Proprietary and Confidential**

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## 1.0 UTILITIES PROFILES

### 1.1 EVERSOURCE

Eversource Energy (NYSE:ES), is a \$8B Fortune 500 energy company providing electric, gas, and water services to 3.96 million customers, and operates in Connecticut, Massachusetts and New Hampshire, as New England's largest utility. Eversource harnesses the commitment of approximately 8,000 employees across three states to build a single, united company around the mission of safely, delivering reliable energy and water with superior customer service.

Note: Eversource will be facilitating the RFP process for this effort.

### 1.2 LIBERTY UTILITIES

Liberty provides regulated electricity, water and natural gas services primarily in North America. In New Hampshire, Liberty provides electric and gas services. Algonquin Power and Utilities Corporation is its parent company.

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities provides electric distribution service in southern and northwestern parts of New Hampshire serving approximately 44,900 customers.

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty provides gas services in the southern half of New Hampshire serving approximately 98,500 customers.

### 1.3 UNITIL

Unitil Corporation is a public utility holding company with electric and gas utility operations in New Hampshire, Massachusetts and Maine. Unitil Corporation is the parent company of three wholly-owned distribution utilities.

- Unitil Energy Systems, Inc. provides electric service in the southeastern seacoast and state capital regions of New Hampshire, including the capital city of Concord, New Hampshire;
- Fitchburg Gas and Electric Light Company provides both electric and natural gas service in the greater Fitchburg area of north central Massachusetts; and,
- Northern Utilities, Inc. provides natural gas service in southeastern New Hampshire, and parts of southern and central Maine, including the city of Portland, which is the largest city in Northern New England.

Together, these 3 Unitil distribution utilities serve approximately 102,700 electric customers and 77,900 natural gas customers in their service areas.

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Participating Utilities serve the following New Hampshire customers.

Utility	Fuel Type	Customers	Split
Eversource <sup>1</sup>	Electric	541,876	67.07%
Liberty Electric <sup>2</sup>	Electric	44,892	5.56%
Liberty Gas <sup>3</sup>	Gas	98,454	12.21%
Unitil Energy Services	Electric	85,571	10.59%
Northern Utilities (Unitil)	Gas	35,781	4.43%

The combined cost of the consultant's services will be split among the participating utilities based on their respective customer counts as indicated in the table above.

## 2.0 BACKGROUND & PURPOSE

The Utilities are seeking qualified consultants to review and assess their plans for the development of back-end software and utility API integration with the proposed NH Statewide Data Sharing Platform ("the Platform"). Section 3 of this RFP describes the expected functionality of the Platform and the current capabilities of the Utilities' back-end IT systems in order to provide context. The scope of this RFP, described in Section 4, is only for consulting services to review, assess, and report on the technical design and cost estimates for the utility back-end software development and API integration work. Responses to this RFP should not include proposals for implementing or operating either the utility back-end software system or the Platform itself.

By order of the New Hampshire Public Utilities Commission (NHPUC), planning and design discussions for the New Hampshire Data Sharing Platform were started in 2017 with the Office of the Consumer Advocate, Unitil Service Corporation, and NHPUC staff (now NH Department of Energy staff). These design efforts expanded to include the three New Hampshire investor owned utilities (Eversource and Liberty Utilities, in addition to Unitil), as well as an additional group of interested parties.

In May of 2021, a settlement was reached between these parties and approved by the NHPUC, pursuant to RSA 378:51 which states in part that:

*The department of energy shall require electric and natural gas utilities to establish and jointly operate a statewide, multi-use, online energy data platform. The data platform shall:*

- (a) Consist of a common base of energy data for use in wide range of applications and business uses.*
- (b) Adhere to specific and well-documented standards.*
- (c) Provide a user-friendly interface.*
- (d) Adhere to a common statewide logical data model that defines the relationships among the various categories of data included in the platform.*

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<sup>1</sup> Public Service Company of New Hampshire, dba Eversource Energy

<sup>2</sup> Liberty Utilities (Granite State Electric) Corp.

<sup>3</sup> Liberty Utilities (EnergyNorth Natural Gas) Corp.

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*(e) Allow for sharing of individual customer data consistent with the opt-in requirements for third-party access specified in RSA 363:38.*

*(f) Protect from unauthorized disclosure the personally identifying information of utility customers in a manner that advances applicable constitutional and statutory privacy rights, including the protections of RSA 363:38.*

*(g) Provide for the voluntary participation of municipal utilities and deregulated rural electric cooperatives in data sharing and the operation of the online energy data platform, subject to terms, conditions, and cost sharing which are reasonable and in the public interest.*

At a high level, the concept for the platform is to be able to provide individual meter-level electric and gas usage (monthly and interval) and billing data to utility customers and authorized third-parties on both a one-time and ongoing basis. It is also expected to be able to provide aggregated, anonymized data (e.g. for an entire municipality) for the following categories:

- Residential – owner occupied or single tenant
- Residential – multi-tenant buildings
- Commercial/Industrial – owner occupied or single tenant
- Commercial – multi-tenant buildings
- Mixed Use – mix of Residential and Commercial tenants in one building
- Government-Owned buildings – state, county, local

The State of New Hampshire Public Utilities Commission in Docket No. DE 19-197, investigating the development of a statewide, multi-use online energy data platform, issued orders<sup>4</sup> approving the parties' Settlement Agreement which provided that NH utilities "shall utilize an RFP process to hire a consultant to review for the [NH Governance Council (NHGC)] the Utility proposals for Back-End Integration and construction of the Utility-Specific APIs for consideration as the Settling Parties balance the needs of the Platform and the NH Utility Back-End Integration"<sup>5</sup>.

These Orders also establish governance of the Platform by the NHGC. Eversource is managing the RFP process for this work herein and will present all responses to the NHGC for review and selection.<sup>6</sup>

The Online Energy Data Platform is being designed to provide a state-wide, multi-utility, energy data sharing platform that will allow utilities, their customers, and third-parties to access and share customer energy data. The Platform will consist of a Platform Hub which provides a unified interface for requesting data from all of the utilities and receiving that data in a consistent, standard format.

Current systems providing energy use data in the State of New Hampshire are limited. Each utility offers a different method for access and views of meter readings data (also often presented in chart form, by account). These views generally offer 12-24 months of

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<sup>4</sup> Order No. 26-589, pp7, 11; Order No. 26-644

<sup>5</sup> Order No. 26-589, pg. 11

<sup>6</sup> See Order No. 26-589.

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history. These websites also offer the ability to export the account data in CSV or Green Button XML. This future platform will standardize data sharing methods and structures across New Hampshire.

Currently, when third-parties (non-account owners) need access to data from multiple accounts, a request is made to each utility for a "one-off" download of requested data. Because they are custom products, these requests may take weeks to be fulfilled. This future platform will provide the means for customers to electronically approve 3rd party access to their usage and billing data.

The platform seeks to address the lack of standardized data access for customers, regulators, and third-parties, which include modern smart grid applications and customer-focused energy management services. The aforementioned settlement aims to eliminate the historical roadblocks that have made secure, contemporaneous and standardized access to energy data by authorized consumers a challenge. The proposed Platform Hub will provide programmatic access to individualized customer data (for consenting participants) as well as aggregated data conforming to pre-determined privacy/anonymization standards, and must fully support the Connect My Data standard and be certified by the Green Button Alliance. In the future, the platform will also provide access to non-utility data, allowing for the sharing of behind the meter, customer device and others types of data.

The Utilities are seeking qualified consultants to respond to this Request for Proposal with a detailed response to assist with the design and assessment of plans for the integration of the utility back-end and utility API to the NHGC.

### 3.0 FUTURE STATE

The Online Energy Data Platform is being designed to provide a state-wide, multi-utility, energy data sharing platform that will allow utilities, their customers, and third-parties to access and share customer energy data. The proposed Platform architecture employs a de-centralized, API driven design with three key components: The **Logical Data Model**; **Utility API's**; and the **Platform Hub**.

#### 3.1 LOGICAL DATA MODEL / UTILITY BACKEND DATA

Each of the participating utilities have their own unique backend IT systems. These systems and their supporting applications store, process and refer to the data elements that they govern in the manner that best suits each utility's own business processes and technologies. This lack of standardization across utilities introduces incongruities when trying to ultimately produce a single, cohesive data set that can be interpreted and processed by third-parties. Without standardization and coordination across the utilities, this effort would be a near impossibility.

The introduction of a "Logical Data Model" attempts to solve some of these problems. The model provides a common abstraction with agreed upon semantics

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for field names and data conventions, allowing the utilities to “speak the same language” with common terms and agreed upon units of measurement. For Green Button data files, this is used primarily to ensure that each field conforms to a common value list and conveys a single semantic meaning. For aggregated data requests, this functionality is essential to allow meaningful combination of aggregated data from each utility into a single set of aggregated values for the municipality or other aggregation boundary. For non-utility meter data (such as from behind-the-meter assets) this may require defining or adopting new standard field names and definitions outside of the Green Button schema. Utility adherence to this logical data standard is a cornerstone of the Data Sharing Platform, enabling data from multiple utilities to be easily combined by an API consumer. The Logical Data Model is represented below with the agreed upon minimum data model (minimum viable product or “MVP”).

## MVP Data Fields for Utility Logical Data Model

MVP Data Fields for Logical Data Model			
Billing Data Fields			
DE19-197 Field	Green Button Location	Enumerated / Allowed Values	Example
Account Number	Retail Customer Schema > CustomerAccount		1089999
Premise			
Customer Name			Bob Smith
Customer Email Address			<a href="mailto:smith@mail.com">smith@mail.com</a>
Customer Phone		Home / Mobile / Business	
Account Address	Retail Customer Schema > ServiceLocation	This should be multiple addresses: Contact and Service	123 Main Street Salem NH 03079 D1 Res
Customer Rate Code			
Meter Number	Retail Customer Schema > ServiceLocation > Usage Point		234433
Meter Reading Previous		Register Read End KWH or KW at end of cycle "meter reading previous"	345678
Meter Reading Current		Register Read End KWH or KW at end of cycle "meter reading current"	345878
Overall Consumption Last Period	UsageSummary > OverallConsumptionLastPeriod		809
Overall Consumption This Period	UsageSummary > CurrentBillPeriodOverAllConsumption		784
Billing Period	UsageSummary > BillingPeriod > Duration and Start		
Commodity	UsageSummary > Commodity	Gas or Eleetctric	"E"
Bill Amount	UsageSummary > Amount	Current bill total	106.5100
<b>Balance Forward?</b>			
Customer Charge	UsageSummary > CostAdditionalDetailLastPeriod (bill line item collection)		\$17.00
Delivery Charge	UsageSummary > CostAdditionalDetailLastPeriod (bill line item collection)	itemKind: 2 Energy Delivery Fee	0.0233
Stranded Cost Charge	UsageSummary > CostAdditionalDetailLastPeriod (bill line item collection)		0.0432
System Benefit Charge	UsageSummary > CostAdditionalDetailLastPeriod (bill line item collection)		0.00456

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Consumption Tax	UsageSummary > CostAdditionalDetailLastPeriod (bill line item collection)	itemKind 5: Tax	0.00005
Energy Service Charge Fixed	UsageSummary > CostAdditionalDetailLastPeriod (bill line item collection)		0.0823
Quality of Reading	UsageSummary > QualityofReading	0 - valid 7 - manually edited 8 - estimated using reference day 9 - estimated using linear interpolation 10 - questionable 11 - derived 12 - projected (forecast) 13 - mixed 14 - raw 15 - normalized for weather 16 - other 17 - validated 18 - verified 19 - revenue-quality	valid
Service Supplier Kind	Retail Customer Schema > Service Supplier > Supplier Kind	Utility, Retailer, Other, LSE, MDMA, MSP	retailer
Service Supplier ID	Retail Customer Schema > Service Supplier > SupplierID		
Service Supplier Effective Date	Retail Customer Schema > Service Supplier > EffectiveDate		
Service Supplier Name	Retail Customer Schema > Service Supplier > Name		
Peak Demand (for current bill period)	UsageSummary > PeakDemand		
<b>Interval Data Fields</b>			
Interval Reading Start Date and Time	MeterReading > IntervalBlock > IntervalReading > TimePeriod		
Interval Reading Value	MeterReading > IntervalBlock > IntervalReading > Value		
Interval Duration	MeterReading > IntervalBlock > IntervalReading > TimePeriod > Duration		
Interval Reading Quality	MeterReading > IntervalBlock > IntervalReading > Reading Quality	Valid, Manually Edited, Estimated Using Reference Day, Estimated Using Linear Interpolation, Questionable, Derived, Projected, Mixed, Raw, Normalized For Weather, Other, Validated, Verified, Revenue-Quality	
TOU	MeterReading > IntervalBlock > IntervalReading > TOU	TOU bucket for interval period	

### 3.2 UTILITY APIS

Each participating utility is responsible for building and hosting one or more API endpoints that that will be responsible for furnishing requested data (on-demand) to the centralized “Platform Hub.”

The utility APIs will contain all required NH utility specific customer authorization and authentication logic and be capable of producing individual customer data (in Green Button XML, CSV, JSON or other format) as well as multi-customer data for aggregation purposes.

### 3.3 PLATFORM HUB

The Platform Hub is a single unified internet hosted web portal and central API that allows customers and other non-utility third-parties to register to access and share combined utility data and participate in sharing individualized customer data directly via standardized APIs (an “API of APIs”) approach using the Green Button Connect My Data standard and aggregated multi-customer data as described below.



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An example process flow starts with an API request to the Platform Hub by a third-party for one or more specific customer data sets or for an aggregated data set. That request is then relayed to the utility's (or utilities') API(s), which then produce either result data sets or error messages if the data is not available or the third-party lacks authorization. The Platform Hub then performs any formatting (if required to meet Green Button standards) or additional aggregation (if needed) and returns the data and status responses to the requesting third-party.

In addition to providing a unified interface for requesting data, the Platform Hub also serves as the single entry point for third-parties to register with the platform, which includes a security review.

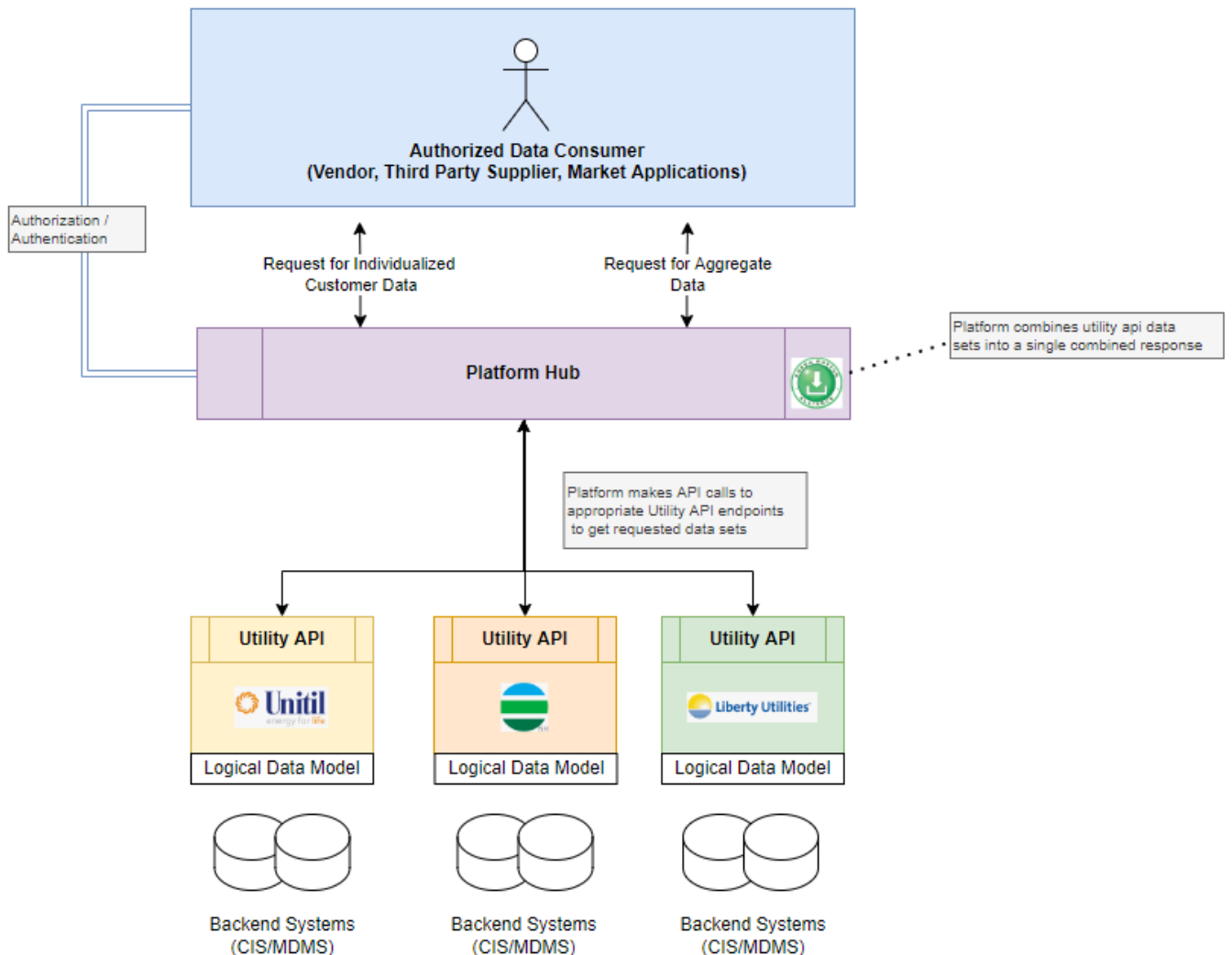
The Platform Hub also should allow customers to authorize (and de-authorize) third-parties to access their data for specific date ranges and time granularities, and for specific periods of time before the authorization expires. These requests should be relayed to the utilities via their APIs and the resulting success/error messages be relayed to the user (customer or third-party). Customer authentication will occur through each respective utility's existing web portal.

The Platform Hub shall also include a third-party user interface, third-party support, and ongoing maintenance and management.

Upon customer or third-party request, platform data will be exchanged on demand via API between the utilities and the Platform Hub and securely transmitted to the requestor. NO data supplied to the Platform Hub by a Utility Specific API shall be stored by the Platform Hub except where technically necessary for brief periods of time for it to function effectively.

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### 3.4 HIGH LEVEL ARCHITECTURE DIAGRAM



### 3.5 BACK-END INTEGRATION

The decentralized architecture of the platform, with the Logical Data Model and API abstraction layers, affords each utility the flexibility to develop their own individualized plans for extracting, mapping, and securely delivering the back-end data necessary to satisfy the platform requirements.

Each of the participating utilities has its own unique back office systems, data stores and IT processes. The power of the Logical Data Model and the Utility APIs allows us to insure that irrespective of the bespoke nature of the underlying, individual utility IT systems, the data can be provided to the Platform Hub from

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each utility in a form that is internally consistent, and can be easily combined by the Platform to create rich and powerful, multi-utility data sets.

## UNITIL BACK-END DATA SOURCES

Unitil plans to source all data required by the Logical Data Model for the initial build of the platform from the enterprise Customer Information System (CIS) as well as our Meter Data Management System (MDMS). Both of these enterprise systems are developed and supported by third-party software vendors.

### **Customer Information System (CIS)**

Unitil's CIS system is enQuesta v4.7 by Systems and Software (a Harris Corporation). The CIS is the system of record for all customer and customer billing related data. This data is stored on premise today in Oracle Enterprise databases. The vast majority of this CIS data is stored in transactional form with a subset of critical replicated reporting data living in a read-only, de-normalized database.

### **Customer Portal - WebConnect**

As a part of Unitil's CIS ecosystem, the web portal provides the end user functionality necessary for a customer to manage their account at Unitil. In Unitil's future state, this portal will serve as the customer's primary means for reviewing and managing data sharing authorizations and reporting on the history of their data sharing activity.

Unitil's customer portal today is WebConnect by Systems and Software. All data from the customer portal is stored in the CIS Oracle databases described above.

### **Meter Data Management System (MDMS)**

Unitil's MDMS system is MeterSense by SmartWorks (also from Harris Corporation). The MDMS is the system of record for all metering data (including interval read data).

This data is also stored on premise in an Oracle Standard Edition database, in normalized, transactional form.

### **Planned System Upgrades**

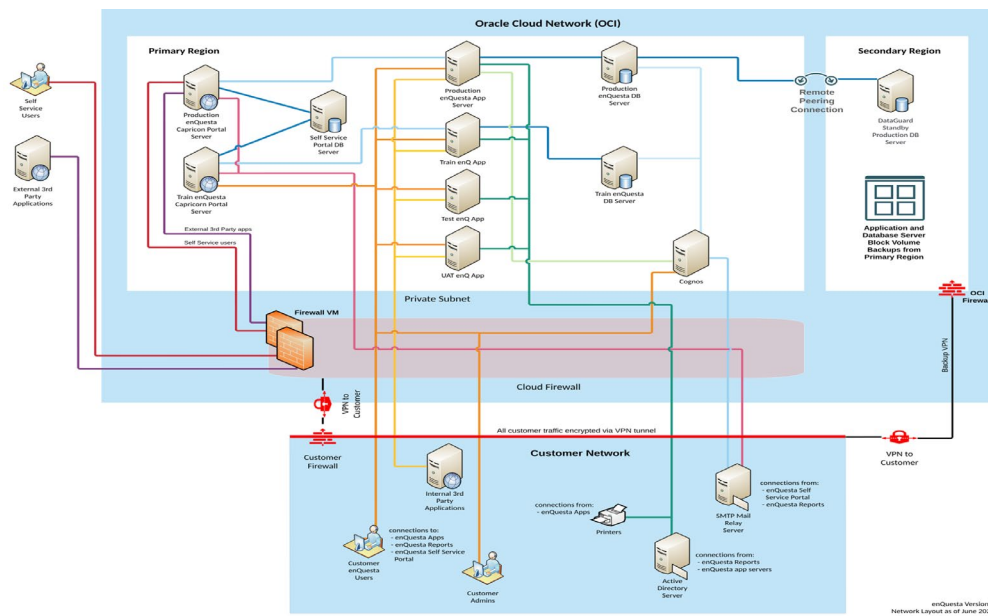
Unitil is in the early stages of a multi-month project to upgrade the CIS system enQuesta to version 6.0. Although the underlying data storage will continue to reside in an Oracle database, this upgrade will move the database to Oracle version 19c and relocating the entire application to the cloud using Oracle's Cloud Infrastructure (OCI). Direct "private cloud" connectivity will exist between the Unitil data center and the OCI via restricted VPN.

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As part of this planned upgrade, Unitol will be moving to a new Customer Portal environment, known as Capricorn. Capricorn, also a Harris product, is notable because it will include a complete Green Button: Connect My Data implementation. Unitol plans to leverage this Connect My Data environment to create Green Button compliant XML to deliver to the Platform Hub APIs and serve as the basis of the data sharing customer authorization experience (based on the OAUTH 2.0 framework).

Following the move to the cloud, the MDMS system will continue to remain on premise as it is today, connected to the OCI environment via private VPN.

### Unitol Future State CIS Cloud Architecture



### LIBERTY UTILITIES BACK-END DATA SOURCES

Liberty is in process with a project initiation to review the Back-End Integration requirements set forth in the NH Green Button Initiative to provide the NH Energy Data Platform the capability for API Integration.

Liberty will look at options with it's current provider, Smart Energy and Water (SEW) and potential other third-parties to provide the services required.

Liberty reserves the right to change the backend services.

Currently SEW platform provides customers with MyAccount DMD (Download my Data ) through website and has CMD (Connect my Data) Green Button Accelerator capability.

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The SEW Platform is tightly integrated with Liberty SAP system, as well as other customer experience channels. SEW is a member of Green Button and provides a Green Button Accelerator to allow third-party API integration.

SEW's Green Button Accelerator is a module within SEW SCM (Smart Customer Mobile) which enables utilities to quickly integrate the full range of Green Button benefits into its digital customer experience ecosystem, while fully complying with the latest North American Energy Standards Board's (NAESB) Energy Services Provider Interface (ESPI) standard, version 3.3, commonly known as the Green Button standard.

**SEW Green Button Accelerator has:**

- Prebuilt CMD journeys (utility initiated / 3rd party initiated)
- 3rd Party Registration Forms
- 3rd Party vetting and approval workflows
- 3rd Party management systems (listings / logs / administration)
- GB compliant 3rd Party forms and widgets
- Authentication and authorization widgets and workflows

**Managed Data Services (Data Custodian)**

- Cloud based database/storage environments for GB compliant meter data (min 24 months)
- Data Encryption and decryption functions
- OAUTH 2.0 and SFTP
- Data governance, administration and maintenance
- Adaptable to any data type / level of aggregation
- Supports single utility or multijurisdictional applications

**Mapping and alignment with logical data model**

- During deployment of SEW's Green Button Solution, configuration and data mapping occurs to align the utility's existing data environment with the base functionality of SEW green button platform.

Liberty's Project and Procurement Office will review costs for enablement of Backend API Integration and compare SEW offering to other potential API services.

**SEW Services required for implementation**

- Core SCM Platform (provides Data custodian service)
- Green Button Accelerator (SEW GB Platform)
  - Implement all Green Button capabilities (functions, journeys, API's, tools, workflows) compliant with new NAESB ESPI v.3.3 standards and GB industry best practice for single utility GB deployment.

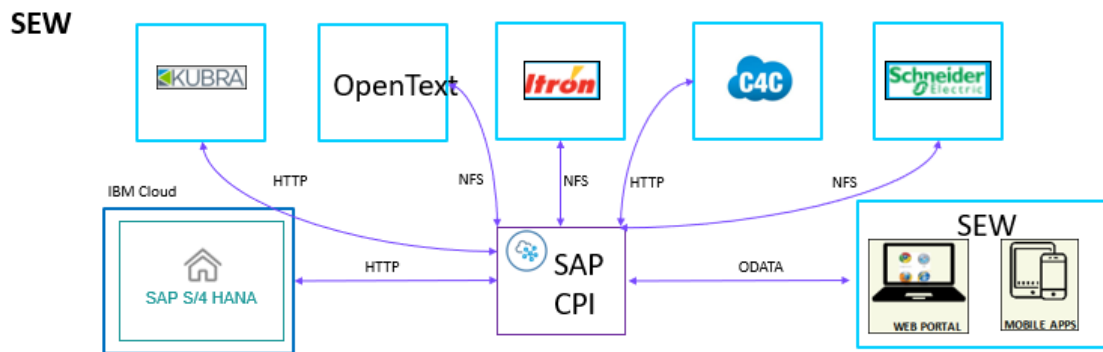
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### Customization for NH Energy Data Platform

- Incorporate any new capabilities of functions to support new use cases and data streams (functions, journeys, API's, tools, workflows) identified in the final design.

Liberty will require other third-party provider services including those from IBM and SAP to be involved in solution design, environment builds and associated work for enablement of integrations to SAP systems.

Liberty required resources from Customer Services, Project Management and IT in order to implement changes, security requirements, testing and quality acceptance of the solution.



SAP S/4 Hana integrated the SAP System for Utilities model using SAP Business Technology Cloud CPI (Cloud Platform Integration Suite) to SEW customer web and mobile systems.

SEW integrated with Kubra payment and billing, Itron integrated meter data, SAP C4C (Cloud 4 Customer Service and Agent Portal ), Opentext document presentment for bill display and Schneider Outage Management.

### EVERSOURCE BACK-END DATA SOURCES

All data will be sourced from the to be built Eversource Enterprise Analytics Platform (EAP). The EAP will be built by Eversource as a proprietary database platform. Please see Eversource Section of the Utility Data Transformation Plans for more details.

As the company progresses through the IT roadmap, additional data may become available in the EAP, which may then be considered for future releases of the NH Statewide Platform.

Such changes would be subject to normal company and regulatory processes for authorization and funding.

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There is a separate old mainframe system in New Hampshire for large businesses.

- Data from NHLPB (New Hampshire Large Power Billing) will need to be loaded into EAP.

**Assumptions include:**

- Two rolling years of historical data will be provided, if available
- Only the specified set of data will be provided, if available
- The customer and vendor will have the option to automatically share data on a monthly basis up to the expiration date
- The data field is defined in the Green Button Connect My Data standard
- Data could be effectively shared without incurring unreasonable costs or administrative burden
- Data can be shared with appropriate customer consent and privacy protections
- Data can be shared with appropriate security measures
- Data has a useful purpose which creates value for customers
- Additional data may be shared at each utilities' discretion

**Planned System Upgrades**

Over the next few years, the Massachusetts electric utility will transition to a new SAP system called Omni and then work will begin to transition Connecticut and New Hampshire customers to that system. This will become the single source customer information system and streamline the data flow into EAP.

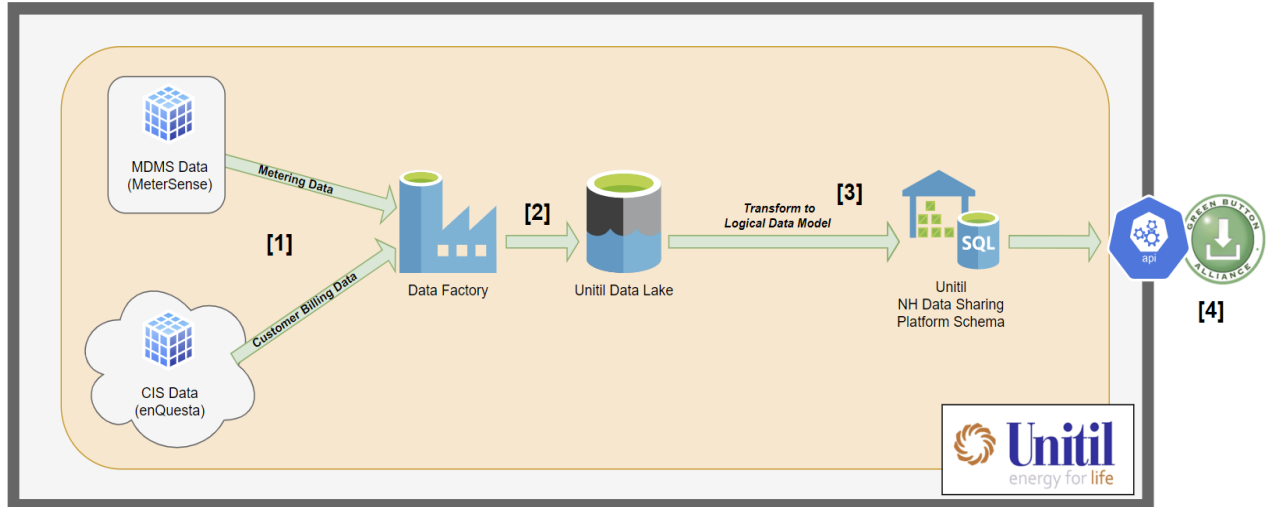
AMI Deployment will allow additional more detailed data to be loaded into EAP and passed to the Green Button Platform.

## UTILITY DATA TRANSFORMATION PLANS - UNITIL

Unitil currently plans to use a warehousing pattern and Microsoft data engineering tools such as Azure Data Factory (ADF) to extract the required data from the aforementioned CIS and MDMS system databases, load that data into a "Data Lake" (or data staging) environment and then transform (and cleanse) that data into the final schema required to support the Logical Data Model and the data retrieval APIs.

Although subject to change, the diagram below attempts to depict the data transformation lifecycle that Unitil is proposing for its supporting backend systems.

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**Step [1]:**

- Relevant metering and customer billing data is automatically extracted from the underlying Oracle databases on a scheduled basis using an ELT/ETL tool. Unifil has chosen to use Azure Data Factory for this function.

**Step [2]:**

- Data is encrypted and automatically loaded into Unifil’s Data Lake environment.
  - As depicted in the diagram above, at this point in the process, the data is still in its original source form and has not been mapped to the Logical Data Model.

**Step [3]:**

- Leveraging the same Azure Data Factory tool set, the unmapped data in the Unifil Data Lake will be transformed into the new schema dictated by the Logical Data Model.
  - At this point, it will be a data set complying with the Logical Data Model available in Unifil’s data warehouse.

**Step [4]:**

- The Unifil Utility API will have access to the transformed data in the data warehouse and have the ability to serve this data up utilizing the standard Green Button XML format.
  - Requests for additional non-customer specific data will be available via this API endpoint as well (for aggregation and other uses) and will be provided to the Platform Hub in JSON form.



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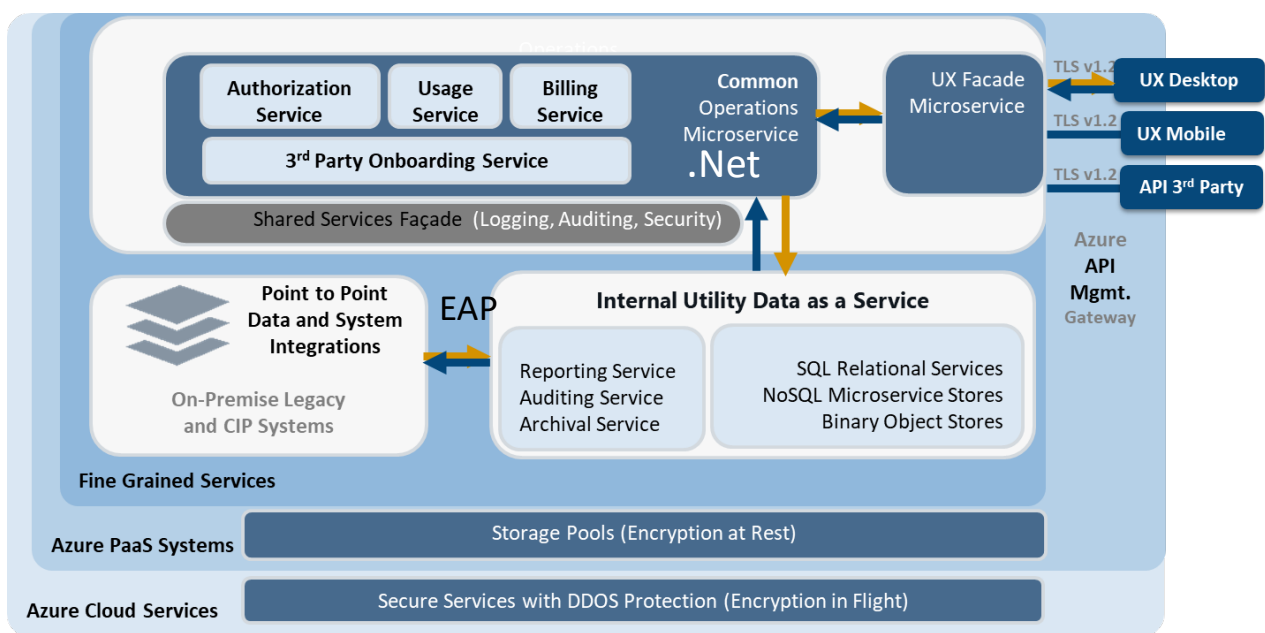
Although subject to change, the diagrams below depicts the data transformation lifecycle which Eversource is proposing for its supporting backend systems.

**UX Façade Microservice** – This service will be used to aggregate data from common operations microservices (BFF design pattern) to feed the needs of different types requestors (UX desktop, mobile, api 3<sup>rd</sup> party). Preferred approach is GraphQL for implementation.

**Common Operations Microservice** – These services are single responsibilities as shown in diagram to perform business driven operations. These micro services might carry data stores for themselves based on need for persistence. For implementation, Eversource will be targeting the Azure function and container based Azure platform like Azure Kubernetes Service (AKS).

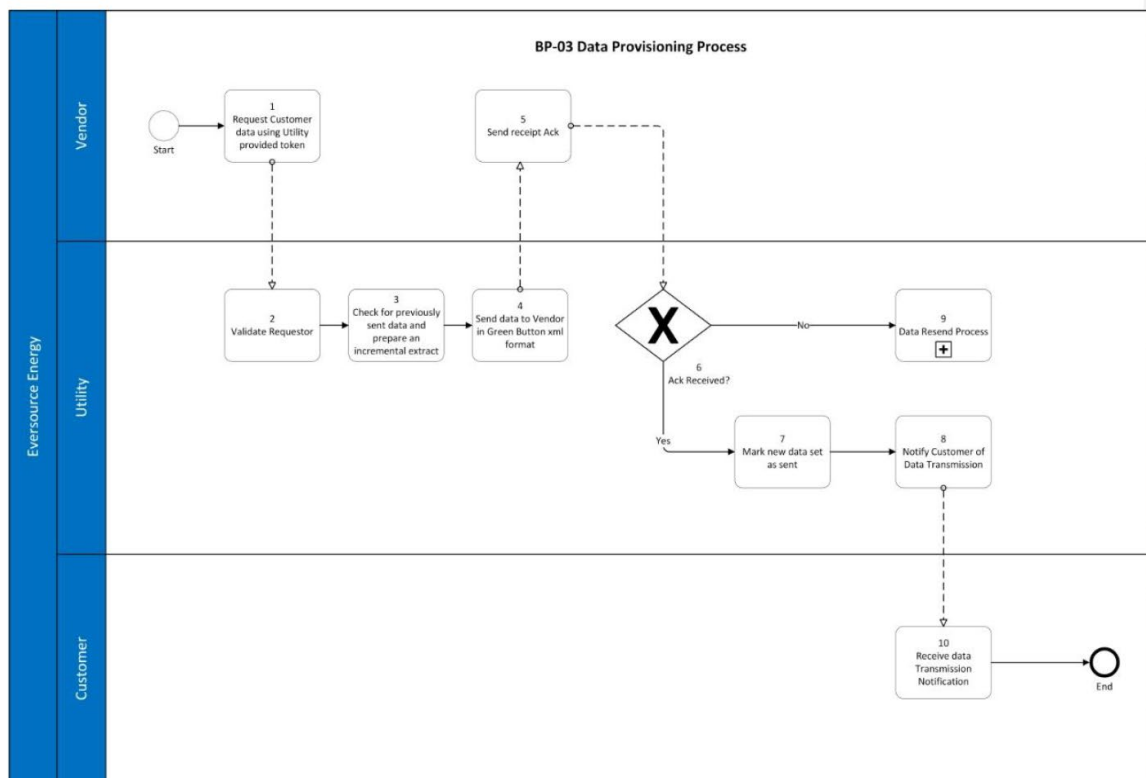
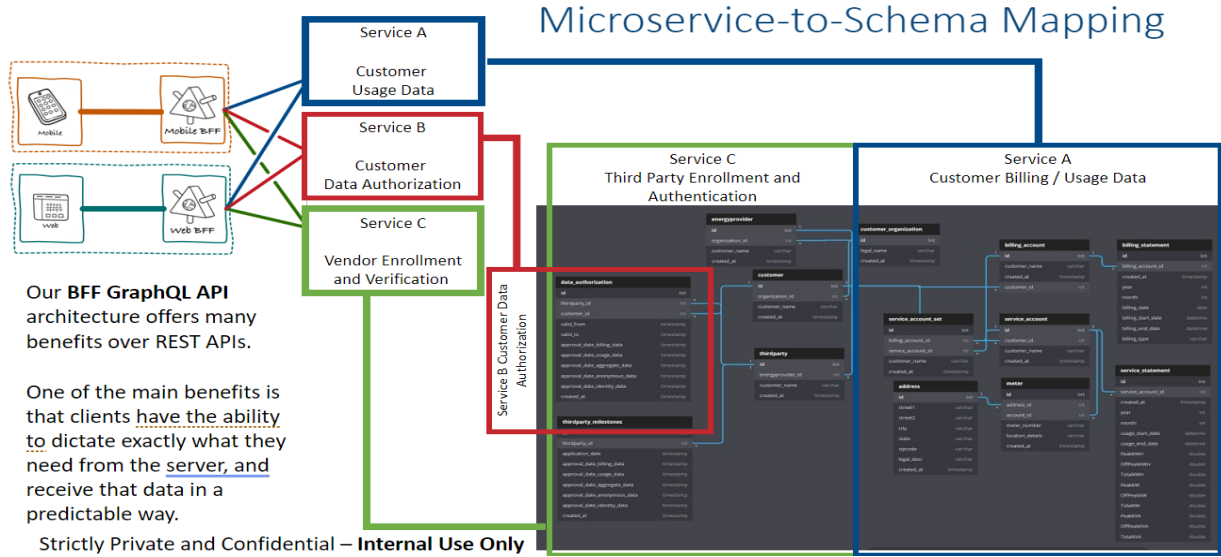
**.Net shared Service** – These will be common reusable services to serve infrastructure cross cutting concerns for platform consists of observability needs (Metrics, Logging, Tracing) as well as audit and security. For implementation of services, Eversource is targeting Azure function and container based Azure platform like AKS and open telemetry (as needed)

**EAP** – This will be Enterprise Analytics Platform, to be built by Eversource and will be a proprietary database platform. Common Operations Microservice will consume the desired data from EAP via Internal Utility Data as a service (part of the EAP) as shown in diagram below.

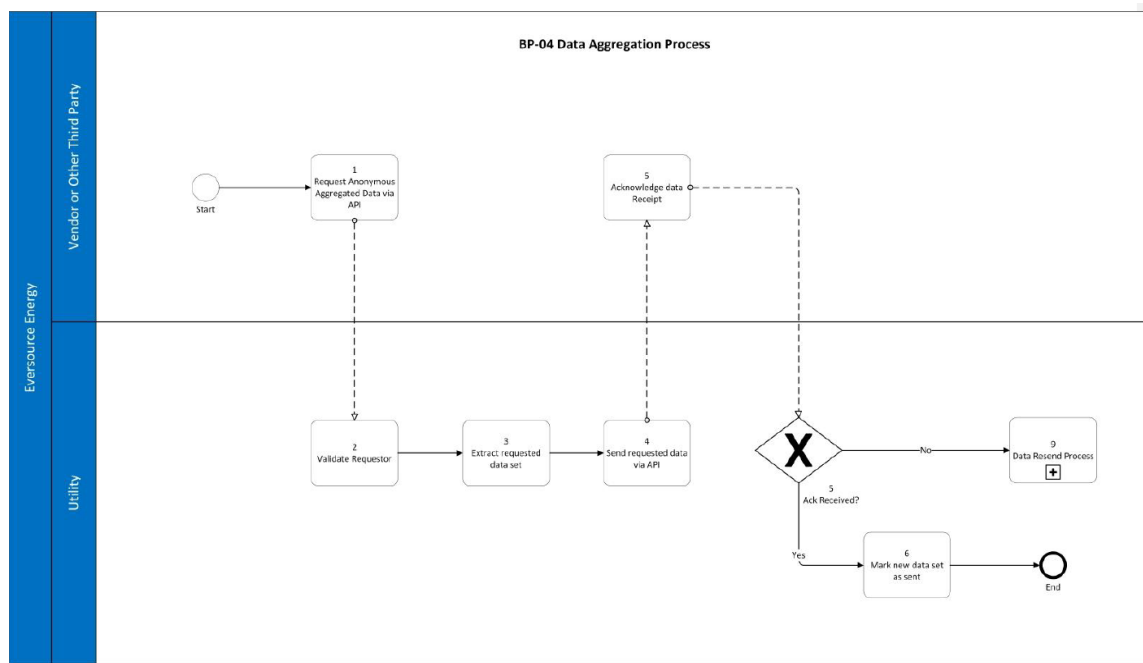


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Eversource plans a Microservices architecture mapping to schema based on the relevant ESPI elements.



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### THIRD-PARTY ENROLLMENT – ALL UTILITIES

Specifics on the mechanics of third-party enrollment for the platform are still being discussed and finalized. It is expected that all vendor information will be aggregated across the participating utilities and managed centrally.

- Platform users shall provide and maintain current contact information and Federal Tax ID to the Platform as part of a centralized onboarding process.
- Platform users will register as one of 4 risk-based groups depending on the expected data that will be downloaded from the Platform. The risk-based groups are:
  - User of anonymized and aggregated data or municipal-level energy usage data. No customer permission required. Anonymized and aggregated data assumes municipal threshold level of 100 or more customers, or for pursuit of energy benchmarking with a contractual relationship at 4/50 (4 customers and no one customer is more than 50% of the data).
  - User with customer-permissioned access to fewer than 100 customers' data at any time.
  - User with customer-permissioned access to 100-1,000 customers' data at any time.
  - User with access to greater than 1,000 customer records at any time.

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As part of the registration process, Platform users registering with the intent to receive non-anonymized customer data must complete a cybersecurity control questionnaire to ensure they have reasonable controls to protect customer data.

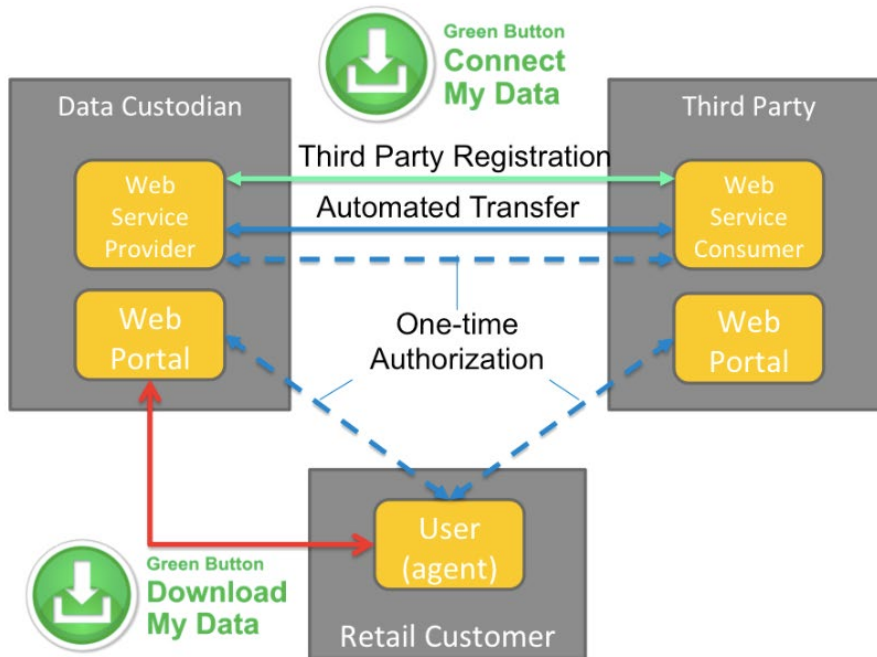
## CYBER SECURITY CONSIDERATIONS

- All data requests and responses must be made using the secure HTTPS protocol (TLS 1.2+).
- While the Utilities understand that all risk cannot be eliminated, the Utilities have a responsibility to ensure that customer and operational data are adequately protected, including when provided to a third-party for legitimate business reasons.
- The Utilities plan to incorporate process and system controls into the platform, commensurate with risk to customer privacy as well as critical infrastructure. The requirements are intended to ensure the Confidentiality, Integrity, and Availability (CIA) of the systems and data.
- Consistent with NIST Guidelines for Smart Grid Cyber Security, NISTIR 7628, the Utilities plan to implement a comprehensive cyber program to protect any actual data transmitted via the platform.

## GREEN BUTTON OAUTH WORKFLOW

- Unitil has chosen to employ the Green Button Connect My Data (GBCMD) specification as an online authorization framework to allow customers to share their data with the platform. This process will be based on the OAuth 2.0 framework.
- The diagram below depicts the authorization workflow in most Green Button Connect My Data implementations.

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### Depicted Actors

- Retail Customer
  - Any person or enterprise that is provided gas or electric service from a participating utility.
- Data Custodian
  - The utility holding the retail customer’s data. With the authorization of the Retail Customer, the Data Custodian shares data with the third-party.
- Third-party
  - Any person or enterprise authorized to have access to data held by the Data Custodian. In this case, the third-party represents an authorized user of the NH Data Sharing Platform.

### Workflow Transitions

The following bullets represent the most common steps (or transitions) involved in the workflow between the Utility (custodian), third-party and retail customer (utility customer) using the Green Button OAUTH methodology.

- Customer begins at the third-party’s website.
- The third-party presents the retail customer with a webpage in which he or she selects which Utility or Utilities the third-party is authorized to access.

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- After doing so, the retail customer's browser is redirected to the selected Utilities' API endpoint.
- Contained within the HTTP redirection message is a query parameter that identifies the third-party to the data custodian.
  - Once directed to the utility site by the chosen third-party, the retail customer completes the login process.
- The customer is redirected (back) to the selected third-party.
  - Contained within the HTTP redirection message are query parameters which identify the Utility and the resources the third-party may be granted access to by the retail customer during the "Oauth 2.0 Authorization Phase."
- Based on scopes contained within the utility redirect message, the third-party displays a webpage to the retail customer with a screen, wherein he is asked to select which utility data he is willing to share:
  - Commodity type
  - Specific meters
  - Length of historic data
- With all permissions granted, the next step is a secure HTTPS redirection message to the utilities' API to begin the data flow.

## CUSTOMER CONSENT TO ACCESS INDIVIDUAL DATA

- NH Utility customers shall affirmatively opt-in to share their individual data via the Platform by completing a web-based authorization customer consent process. Each customer consent shall have a defined scope that only authorizes access to those Platform users designated by the customer.
- To protect customer data appropriately, there shall be no blanket authorizations. In order to ensure that customers are informed, the Platform shall notify each customer annually by email (or by another contact method if email address is unavailable) of an option to revoke authorization, if such authorization was granted on an ongoing basis.
- If the customer takes no action, ongoing authorizations shall automatically extend for a maximum of up to five years with an annual notice providing an option to revoke such authorization. The authorization will otherwise remain in effect until five years have elapsed from the date of the original authorization, or until the customer closes his or her utility account or revokes the authorization, whichever is sooner.

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## PRIVACY STANDARDS

Platform users must be a signatory to the DataGuard privacy standard ([https://www.dataguardprivacyprogram.org/downloads/DataGuard\\_VCC\\_Concepts\\_and\\_Principles\\_2015\\_01\\_08\\_FINAL.pdf](https://www.dataguardprivacyprogram.org/downloads/DataGuard_VCC_Concepts_and_Principles_2015_01_08_FINAL.pdf)).

Platform users shall include a reference to DataGuard in their privacy policy or other form of publicly available acknowledgment. If DataGuard is abolished, then the last published version shall be deemed binding until otherwise decided by the NHGC.

- “Account Data” in DataGuard shall be deemed to include all data provided by the Platform, including, but not limited to, account and service details, billing history, program eligibility information, etc.
- Platform users shall keep customer data confidential and may not disclose it to any unauthorized person or entity.
- Platform user’s obligations hereunder are subject to:
  - The wishes of a customer as may be described in an agreement between the customer and Platform user that might allow for disclosure to other entities, as described in DataGuard Section 2.0; and
  - The Platform user’s need to share customer data with its agents or contractors (including, but not limited to, cloud hosting providers) as is reasonably necessary to deliver and fulfill the services according to the customer authorized purpose. A Platform user shall contract with all such third-parties such that the Platform user can attest that the third-party will “maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the express consent of the customer.” RSA 363:38V.

Platform users shall agree that aggregated or anonymized data is to be used in the aggregated or anonymized data format. Platform users shall agree that they will not attempt to utilize artificial intelligence or other activities with the data or in combination with other data that could result in reversed engineering

Platform users shall provide annual attestations that the submitted controls substantially still exist. Platform users receiving non-aggregated customer data shall be required to implement the Cybersecurity Risk Management Program provisions of DataGuard Section 4(a)-(e).

Customers shall be provided annually a report of who has been approved to access their data and informed how they can make adjustments if desired.

## UTILITY COST ESTIMATE APPROACH FOR SOFTWARE PROJECTS

Each utility will develop a cost estimate for the internal development costs for integrating data with the Platform, above and beyond the cost of procuring and operating the shared

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Platform. This cost estimate will include any of the work necessary for implementation of “Utility Backend”, as well as ongoing support, licensing and maintenance. It is important to understand that each utility will have its own unique challenges and constraints when implementing the work described in this RFP.

The types of project activities to be included and considered for estimation are listed below as the “cost components” for the platform.

- Design and Architecture
- Software Development
- QA Testing and Remediation
- Project Management, Oversight and Coordination
- Licensing and Purchases
- Development of Documentation and Support Materials
- Platform Certification
- Infrastructure Costs
- Hardware and Storage
- Networking
- Cloud and Data Sharing
- Provisioning and Maintenance of Test and Production Environments
- Deployment
- Performance and Load Testing
- Platform Metrics
- Customer Consent and Authorization
  - Including Tracking, Auditing and Reporting
- Platform User Registration / Certification
- Cybersecurity and Compliance
  - Including periodic vulnerability and penetration review
- Utility Marketing and Communications
- Ongoing Support, services and licensing

#### **4.0 CONSULTANT SCOPE OF ENGAGEMENT FOR BACK-END REVIEW**

The Utilities are seeking qualified consultants to respond to this Request for Proposal.

##### **Objectives include:**

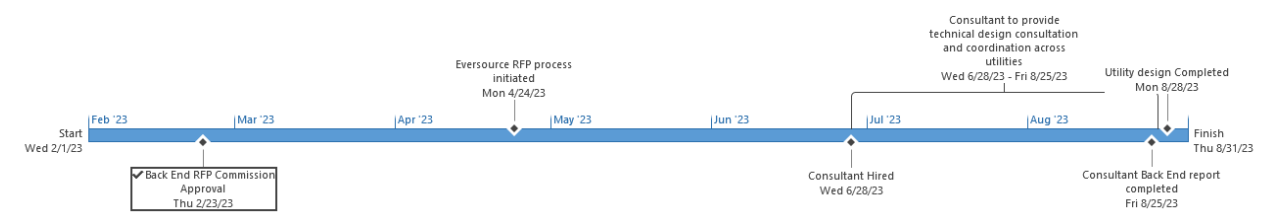
- Review of Utilities’ backend technical design, scope, and cost estimates including contracting and internal labor estimates, and schedules
  - Present initial findings on backend design to the NHGC
  - Utilities may revise their backend plans to address recommendations or comments
  - Review of Utilities final backend plans and provide summary report to NHGC



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- Review the utilities designs for back end integration and API development (see Section 3.1 and 3.2 above).
  - It is expected that the successful bidder will interview company subject matter experts and review relevant documentation. This could be done remotely through phone and/or video meetings.
  - Provide a report(s) to the NHGC for consideration of recommended changes to plans which may improve the effectiveness, performance, or cost of the work to complete the Platform. It is expected that the report will include technical guidance, discussion of design, risks, cost reasonableness, opportunities to improve technical and financial performance.
- Prepare a proposal with estimate for ongoing support of the work to assist in implementation of the overall Platform and coordination of multi-utility efforts. This proposal would be provided to the NHGC for consideration of ongoing project support.
- Provide a report to the NHGC assessing the final overall design for each utility’s back-end integration with the platform and Utilities’ proposed process for back-end implementation. This report should be of suitable quality for delivery to the Public Utilities Commission. The report should include Consultant’s assessment of the extent to which the backend integration work for each utility represents shared (or not) investments across each Utility’s other jurisdictions, given current plans. The Consultant will get information for this task from the Utilities; Consultant is not expected to research regulatory dockets to investigate potential future changes to backend systems for this task.
- Be available to support findings to the Commission at a formal hearing in Concord, NH. Typically this support would require a full business day for preparations and a full business day for the hearing. With permission of the NHPUC, remote presentation may be possible. If written testimony is required, a change order could be proposed to the NHGC for consideration.
  - The current expectation is that the hearing will occur in Q4 of 2023.
- A dedicated project manager will be assigned to the team by the Governance Council. The project manager will serve as the point person for the consultant to ensure all work is properly coordinated.

#### 4.1 HIGH-LEVEL ENGAGEMENT TIMELINE



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## 5.0 OUT OF SCOPE

- Software development tasks, data conversion or support of systems are not expected/anticipated.
- The consultant is expected to offer expert review of costs presented by the utilities but is not expected to solicit quotes or proposals.
- Physical testing, compliance testing, or certifications of systems will not be required.
- Travel for interviews, discussions with NHGC, or general information gathering will not be required. It is expected that this information can be provided in writing or through remote meetings.

## 6.0 ADMINISTRATIVE

### 6.1 TECHNICAL AND CONTRACTUAL CONTACT

All questions or communications pertaining to this RFP must be directed to the Eversource Procurement Department via the Ariba Messaging tool. Communications to Eversource personnel pertaining to this RFP outside of Ariba can result in disqualification from the RFP.

### 6.2 DUE DATES – ALL DATES ARE SUBJECT TO CHANGE

All proposals are to be submitted electronically via Eversource’s Ariba tool. Any proposal received after the required date and time specified for receipt shall be considered late and non-responsive. Any late proposals will not be evaluated for award.

Event	Date	Time (EST)
1. RFP is released to qualified Vendors.	4/24/23	
2. RFP Question Deadline (no questions will be accepted after this date)	4/28/23	12:00 PM
3. Utilities response to RFP Questions	5/3/23	2 PM
4. Proposal due date	5/12/23	12:00 PM
5. Vendor short-list Presentation, if necessary (On-site or video-conference)*and/or clarifications	6/1 – 6/6	N/A

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6. Anticipated decision and selection of Vendor	Week of 6/7	N/A
7. Project Kick-off	Estimated week of 6/20/23	N/A

\*It is expected that the short-listed supplier’s team will be available to present during specified timeframe listed above through remote means.

## 7.0 GUIDELINES FOR PROPOSAL PREPARATION

### 7.1 PROPOSAL SUBMISSION

Award of the contract resulting from this RFP will be based upon the Respondent whose offer will be the most advantageous to the Utilities in terms of cost, demonstrated resource allocation and capacity, demonstrated experience with Utility IT systems, knowledge of data sharing standards, ability to adhere to schedule of deliverables, report writing expertise, experience testifying, sustainability, diversity, cooperation throughout contracting/ability to execute contract in timely fashion, and other factors as specified elsewhere in this RFP.

Ariba Sections 1-9 are mandatory fields and must be fully answered in order to move forward. The sections are titled as follows:

- 1) Eversource
- 2) Supplier Code of Business Conduct
- 3) Authorized Person Confirmation
- 4) Instruction
- 5) Introduction to Event
- 6) General Questions
- 7) Technical Specifications and Proposal
- 8) Commercial Specifications and Proposal
- 9) Services

A response guide for this RFP can be found in Ariba Section 5.2 – Introduction to Event.

Your technical proposal must be uploaded to Ariba Section 7.2, which should be composed of the following:

- Relevant experience with utilities
- Please provide your methodology to address all scope items listed in section 4.
- Descriptions of similar engagement
- Mutual Non-Disclosure Agreement (MNDA)

Please include your Company Name in the title of each of your response files.

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The detailed requirements for each of the above-mentioned sections are outlined below.

## **8.0 DETAILED RESPONSE REQUIREMENTS**

### **8.1 RFP RESPONSE CATEGORIES**

The RFP Response should include:

- Cover Letter
- Executive Summary
- Company Overview
- References

The cover letter (1 page limit) shall include a statement by the Bidder accepting all terms and conditions contained in this RFP and a brief discussion of the Bidder's ability to provide services which meet the specifics defined within the RFP.

The cover letter shall also include the name, address, telephone number and email address for the person that is authorized to contract with Utilities and shall be signed by said employee.

The Executive Summary (3-page limit) should include:

- A. A statement summarizing the benefits of your approach for the Utilities
- B. A statement explaining how you plan to meet the expectations of this RFP
- C. A description of the depth of your firm's capabilities
- D. A summary of relevant experience showcasing how your approach has been used by other companies to address similar requirements

It is mandatory for this RFP that the Bidder provide three (3) customer references (Utilities Industry preferred) involving the use of your approach to address similar requirements.

The Bidder must provide the following information for each reference:

- A. Name, title, phone number and email of reference executive contact
- B. Company name, address, description of company, revenue, and number of employees
- C. Description of how the company utilizes your solution to address similar needs.

The Utilities reserve the right to contact any or all the customer references provided by the Bidder.

### **8.2 QUESTIONS AND ANSWERS – N/A**

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### 8.3 REQUIREMENTS – N/A

### 8.4 STATEMENT OF WORK (SOW)

Provide details of how the engagement will proceed from beginning to end.

- Complete all sections in the SOW Template provided in Ariba Section 7.1, and upload to Ariba Section 7.2.

Do not include pricing within the statement of work document. Pricing must be submitted into excel pricing template and excel file uploaded to Ariba Section 8.2. Do not include pricing in the main body of your response and Statement of Work document.

### 8.5 CONTRACT / AGREEMENT DOCUMENTS

Each Utility will be contracting with the successful bidder. The documents which will be used to govern services between the parties are attached in Section 9.1 of the Ariba e-sourcing event. The amount of redlines will be taken into consideration in the overall selection of the successful bidder.

### 8.6 VENDOR SECURITY QUESTIONNAIRE (DDQ) – N/A

As no system access will be required, a Vendor Security Questionnaire will not be required for this RFP.

### 8.7 N/A - RESERVED

### 8.8 N/A - RESERVED

### 8.9 IT SECURITY REQUIREMENTS – N/A

### 8.10 MUTUAL NON-DISCLOSURE (MNDA)

Each utility requests bidder's review and signature of the Mutual Non-Disclosure Agreements (MNDA) before the organizations exchange information.

### 8.11 PRICING/COMMERCIAL RESPONSE

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Your Commercial Proposal, in excel file, must be uploaded to Ariba Section 8.2. Please complete the excel Pricing Template listing hourly rates by position. Be sure to include applicable rates for those individuals who may provide testimony.

## 9.0 EVALUATION FACTORS FOR AWARD

Any award to be made pursuant to this RFP will be based upon the proposal with appropriate consideration given to operational, technical, cost, and management requirements. Evaluation of offers will be based upon the Respondent's responsiveness to the RFP and the total price quoted for all items covered by the RFP.

The following elements will be the primary considerations in evaluating all submitted proposals and in the selection of a Respondent or Respondents:

1. Completion of all required responses in the correct format.
2. The extent to which Respondent's proposed solution fulfills stated requirements as set out in the RFP.
3. An assessment of the Respondent's ability to deliver the indicated service in accordance with the specifications set out in this RFP.
4. The Respondent's stability, experience and record of past performance in delivering such services, knowledge of data sharing standards, report writing expertise, experience testifying.
5. Availability of sufficient high-quality Respondent personnel with the required skills and experience for the specific approach proposed.
6. Respondent's acceptance of contractual terms and conditions, if applicable.
7. Overall cost of Respondent's proposal (lowest reasonable cost also considering the items above).

## 10.0 RESPONSE TERMS

### 10.1 REQUIRED PROPOSAL RESPONSE STRUCTURE

Bidders are required to submit their response in a separate stand-alone document file different than this Word RFP document. Please do not submit your response within this RFP document.

Please use the order of the outline provided in Ariba Section 5.2 of the RFP when providing information in such a way that the overall format, organization and layout of the original RFP is maintained.

### 10.2 CORRESPONDENCE CONTROL

All correspondence relating to this RFP shall be limited to transmittals between the bidder/supplier and Utilities via Eversource's Ariba Messaging tool. Communication

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with Utilities Business Partner(s) is prohibited during the RFP process and can result in disqualification from the RFP.

### 10.3 RFP PARTICIPANT QUESTIONS AND CLARIFICATIONS

RFP participants are invited to submit questions or request interpretation or clarification of the RFP as needed. All questions must be submitted via Ariba by the deadline for such questions.

### 10.4 EXCEPTIONS TO THE RFP AND AGREEMENT DOCUMENTS

The submitted proposal must be in accordance with the Agreement documents and its Exhibits, if any, attached in Ariba Section 9. Any exceptions to the Agreement documents or Exhibits must be identified in redline format, using the track changes option to display the markup. For each exception taken, please also insert a comment explaining the reason for the exception or your proposed alternative language. Any exceptions to the RFP must be documented. Respondent shall include a list of exceptions taken to the RFP. Exceptions must refer to specific paragraphs in the RFP. Respondents are cautioned that Utilities may or may not negotiate any exceptions taken. Amount of redlines will be taken into consideration in the overall selection as per Sections 5 and 9 of this document. Please note that word document entitled "*Consultant security related questions – Liberty*" contains a list of questions which the winning bidder will be expected to provide answers.

### 10.5 REPRESENTATIONS MADE BY THE VENDOR

By submitting a proposal:

- The bidder has read and understands this RFP and Bidder's response is made in agreement and compliance with the RFP. All terms and conditions set forth herein are accepted and incorporated in the proposal.
- The bidder possesses the capabilities, personnel, technology, and financial wherewithal to provide the services in the proposed solution.
- The Utilities have the option to incorporate sections of the RFP response into the final contractual agreement.

### 10.6 FAILURE TO ESTIMATE COST

No allowance will be made for failure of Bidder to estimate correctly the costs and the nature of performance requirements. Failure to do so will be at Bidder's risk and will prevent granting a relief on a plea of error in proposal.

### 10.7 COSTS INCURRED

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Costs incurred in the preparation of the proposal and subsequent demonstrations or any other activities related to the proposal shall be borne by Bidder. The rejection of any proposal in whole or in part will not render the Utilities liable for incurred costs and damages.

#### 10.8 RIGHTS TO REJECT ALL BIDS

Utilities, at their sole discretion, reserve the right to reject all bids as well as the right not to award any contract under this bid process. In addition, the Utilities may discontinue this RFP at any stage.

#### 10.9 CONFIDENTIALITY

Bidder shall maintain all data furnished by Utilities as strictly confidential information and shall not, unless otherwise required by law, disclose the source of such data to any person except with the written consent of Utilities' legal counsel.. Bidder shall promptly notify Utilities of any data which are required by law to be disclosed to any person.

#### 10.10 PROPRIETARY MATERIAL

This RFP and all associated documents are confidential and for the sole use of Bidder's preparation of a proposal. By your company's acceptance hereof, Bidder agrees:

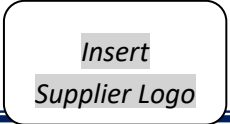
- Not to disclose, copy or distribute this RFP and attachments in whole or in part to persons other than your company's employees and agents who are authorized by nature of their duties to receive such information.
- To return to Utilities any confidential or proprietary materials upon Utilities' request.
- Not to use any information in this RFP and attachments or any other materials related to the business affairs or procedures of Utilities and any of its affiliates for Bidder's own advantage, other than in performance of this RFP.
- That Utilities reserve the right to retain all submitted materials.



RESPONSE GUIDE:

Please be sure to include all elements in the chart below are included in your RFP response:

<b>Signed Mutual NDA's – Please upload to Ariba Section 9.1.1</b>
<b>Technical Proposal – Must include components listed in Ariba Section 7.2 and address all objectives of Section 4.0 and components listed in Section 8.1 of the RFP Main Document.</b>
<b>Commercial Proposal – Pricing document <u>in excel format</u> uploaded to Ariba Section 8.1</b>
<b>SOW – Complete the template and upload to Ariba Section 7.2</b>



**Instruction to use this template:**

1. All text highlighted in grey background are a guide to address specific sections in this template.
2. Please start entering your inputs in the area marked as “[Type here]” only against each text highlighted in grey colour background.
3. While entering your inputs please ensure that all the texts highlighted in grey background are all deleted. Also, delete this instruction box in dotted line after completing this SOW

# Statement of Work

## Consultant-NH Energy Data Platform: Backend Review

**[Type here]**

Submitted to

**Liberty, Unitil Eversource Energy**

<MM-DD-YYYY>

**[Type here]**

**Submitted by**

**Submitted to**

<Supplier Representative Name> [Type Here]

<Designation> [Type Here]

<Company Name> [Type Here]

Phone: <Phone no(s)> [Type Here]

Fax : <Fax no(s)> [Type Here]

E-mail: <Email id of the SOW submitter> [Type Here]

*Eversource Energy*

*Procurement Contact: Janice George*

*Phone Number 860-665-2048*

*E-mail: janice.george@eversource.com*

# Project Name SOW

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## Project Name SOW

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*Note: This is a generic Statement of Work outline. This will require customization based on the nature and type of services to be acquired. If a section does not apply, please indicate N/A and do not delete the section.*

# Project Name SOW

---

This Statement of Work, effective the \_\_\_\_\_, (referred to as "SOW") is subject to and entered into pursuant to the Master Agreement dated \_\_\_\_\_ between Name of Utility ("Utility") and Supplier ("Supplier").

## 1. Overview

### 1.1. Project Name

### 1.2. Project Objective

### 1.3. Definitions

### 1.4. Current State

*[Provide a description of the current state environment and/or a process diagram] [Type here]*

### 1.5. Future State

*[Provide a description of the future state environment and/or a process diagram] [Type here]*

## 2. Scope

### 2.1. In Scope

*[Provide details on the scope of the project and/or service, details on the logistics, infrastructure and resources required before & during the project and/or service engagement for efficient engagement execution] [Type here]*

### 2.2. Out of Scope

*[Provide details on what is not in scope of the project and/or service] [Type here]*

### 2.3. Schedule

*Responder's should submit a detailed project schedule in Microsoft project, Primavera or Excel. Include workshops, phases, key milestones and deliverables. Responders should provide a schedule that they are willing to commit to.*

### 2.4. Schedule Gantt Chart

*<Embed the detailed project schedule over here> [Type here]*

# Project Name SOW

---

## 3. Engagement

### 3.1. Planning

#### 3.1.2 Kick-off

*[Provide a brief description as to how the project / service would be kicked off]* [Type here]

#### 3.1.3 Requirements Gathering

*Provide template and describe your requirements gathering process and the number of hours to complete.*  
[Type here]

## 4. Communication Plan

(The Communication Plan shall be comprised of budget, schedule, deliverables and provide a status in the form of Green –On Target, Yellow-At Risk and Red-Behind Schedule) (Progress Reporting) *[Provide details on how and when the project progress will be reported and any issues or problems encountered would be escalated and managed during the course of the project / service delivery life cycle.]* [Type here]

Insert the types of communication vehicles such as:

- Status report
- Weekly meetings
- Monthly meetings

## 5. Governance

### 5.1 Supplier Project Personnel

The project shall be staffed with a core project team. Additional personnel shall be assigned to work under the direction of the core team as required to effectively implement the solution(s).

Role	Name	Skill Level

## Project Name SOW

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Supplier shall inform Utilities of any pending or possible changes in the use or status of all Supplier project personnel.

Any changes to Supplier staff, including work assignments and participation level, shall be subject to Utility approval.

Utilities shall have the right to have any Supplier staff replaced or removed from the project for cause.

### 6. Assumptions

*[Provide detailed assumptions related to proposed Project and / or service with Utilities]* [Type here]

### 7. Risks Impact and Mitigation:

Key Risk	Impact	Mitigation

### 8. Change Management Process

*[Provide details on how the changes to the scope of project and/or service will be managed during the course of the engagement, giving details in terms of technical and pricing aspects of the engagement.]*  
[Type here]

### 9. Utilities Team Estimated Time commitment

*Utilities are interested in knowing the level of effort (in staff-hours) required of its staff for each requirement. Record the staff-hours that must be provided by the Utilities teams for a successful project in the Utilities Hours column. The responder should also identify the technical skills or employee type required for the activities estimated. The role can be functional or technical.*

Task	Role	Effort (FTE Hrs)	Project Phase (Schedule)



## Project Name SOW

Task	Role	Effort (FTE Hrs)	Project Phase (Schedule)

### 10. Deliverables & Acceptance Criteria

#### 10.1 List of Deliverables

Number	Deliverable	Target Completion Date

#### 10.2 Deliverable Descriptions

*<Provide a detailed description of each deliverable. Assign a number to each deliverable.>* [Type here]

### 11. Milestone Details

*<Document the milestones. Multiple deliverable should incorporate a milestone>* [Type here]

Milestone Number	Milestone Description	Target Completion Date	Payment Dollars

## Project Name SOW

---


### 12. Term of the SOW

Begins from Award through acceptance of report

### 13. Pricing

Leave this section blank. Pricing info should be added to the pricing template and uploaded to your Ariba response in Question 8.2.

Provide Hourly Rate for each resource

Provide breakout of hours for each deliverable that then roles up to each major milestone

# Project Name SOW

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**Customer** Utility

**Supplier** **[Type here]**

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

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

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# Project Name SOW

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End of Document

1. Do you conform with a specific industry standard security framework? (e.g. NIST Cybersecurity Framework, ISO 27001, etc.)
2. Does your organization have a data privacy policy?
3. Describe your organization's business background and ownership structure, including all parent and subsidiary relationships.
4. Describe how long your organization has conducted business in this product area.
5. Do you have existing Critical Infrastructure or Utility Provider customers?
6. Have you had a significant breach in the last 5 years?
7. Do you have a dedicated Information Security staff or office?
8. Do you have a dedicated Software and System Development team(s)? (e.g. Customer Support, Implementation, Product Management, etc.)
9. Describe your environment that will assist those who are assessing your company data security program.
10. Describe how you perform security assessments of third party companies with which you share data (i.e. hosting providers, cloud services, PaaS, IaaS, SaaS, etc.). Provide a summary of your practices that assures that the third party will be subject to the appropriate standards regarding security, service recoverability, and confidentiality.
11. Provide a brief description for why each of these third parties will have access to LU data.
12. What legal agreements (i.e. contracts) do you have in place with these third parties that address liability in the event of a data breach?
13. Describe or provide references to your third party management strategy or provide additional information that may help analysts better understand your environment and how it relates to third-party solutions.
14. Will the consulting take place on-premises?
15. Will the consultant require access to LU's network resources?
16. Will the consultant require access to hardware in LU's data centers?
17. Will the consultant require an account within LU's domain (@\*.LibertyUtilities.com)?
18. Has the consultant received training on [sensitive, HIPAA, PCI, etc.] data handling?
19. Will any data be transferred to the consultant's possession?
20. Is it encrypted (at rest) while in the consultant's possession?
21. Will the consultant need remote access to LU's network or systems?
22. Can we restrict that access based on source IP address?

## CORPORATE INFORMATION SECURITY REQUIREMENTS

1. The following security requirements and terms and conditions (“Requirements”) apply to any third party, vendor or contractor (“Contractor”) that electronically transmits, receives, hosts, stores, maintains, processes, or otherwise has access to confidential information belonging to Eversource Energy and subsidiaries and their affiliates (collectively “Eversource”) in mission critical company applications, including the following:
  - a. Critical Infrastructure Information (“CII”), which includes without limitation, Critical Energy Infrastructure Information (“CEII”), as defined by the Federal Energy Regulatory Commission, and information subject to Critical Infrastructure Protection (“CIP”), as defined by the North American Energy Reliability Corporation;
  - b. Personal Identifiable Information (“PII”) shall mean first name and last name or first initial and last name of an individual in combination with any one or more of the following data elements that relate to such individual: (a) Social Security number; (b) driver's license number or state-issued identification card number; (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident’s financial account;
  - c. Protected Health Information (“PHI”) shall mean any information relating to the past, present and future physical or mental condition of an individual, including any information about their participation or coverage in our health plan; or
  - d. Any information deemed by Eversource to be confidential and proprietary such as confidential or proprietary business or technical information including, but not limited to, technical, financial, commercial, marketing, customer or other business information that the Company desires to protect against unrestricted disclosure or competitive use.

The foregoing information shall be collectively referred to as (“Confidential Information”).

2. Contractor shall make commercially best efforts consistent with industry standards as stipulated in ISO/IEC 17799 Code of Practice for Information Security Management or its equivalent to ensure the confidentiality, integrity and availability of the Confidential Information within its control.
3. Contractor shall provide Eversource with documentation to certify that it satisfies the following **minimum-security requirements** which must be included with any purchase order issued or any agreement with any Contractor prior to execution by Eversource:

- a. Contractor has a written Confidential Information management program and a published set of comprehensive security policies that stipulate user responsibilities, meet all business, legal and regulatory requirements for protecting the Contractor's cyber assets and Eversource's Confidential Information accessed or stored by Contractor that ensures the confidentiality, integrity and availability of the Confidential Information accessed or stored by Contractor;
- b. Contractor has established written policies and procedures for data security that prohibit activities that jeopardize security such as sharing user passwords, running hacking tools, performing unauthorized system changes. Such policies and procedures should have identifiable associated consequences. Contractor shall have communicated these policies and procedures to all users of the Contractor's computer resources with user acknowledgement retained on file;
- c. the Contractor's cyber asset level of protection has been defined using a risk assessment process factoring in business impact and the probability of occurrence;
- d. each user shall be uniquely identified to ensure accountability and Contractor has processes in place to ensure only authorized and appropriate level of access is granted to computer resources;
- e. user activity is logged and Contractor has a process in place for reporting suspected unauthorized activity to facilitate investigations;
- f. attempted unauthorized activity is monitored by Contractor 7x24 for identified critical cyber assets (i.e., the Internet gateway, dial-in, or a high-risk application) and Contractor has associated incident handling procedures in place to ensure timely and appropriate response in compliance with all applicable laws;
- g. Contractor has change control processes and associated security in place to ensure that only authorized hardware and software is installed on the company's network;
- h. Contractor has security services such as anti-virus, anti-spyware, firewalls, patch update processes, intrusion detection, third party vulnerability assessments, and vulnerability scanning of critical cyber assets, in place and up to date with the latest versions and technology, and Contractor shall keep such security services current and up to date with the latest versions, patches, new virus definitions, etc., and periodically test these services to ensure effective on-going operation;

- i. where wireless technology is used, Contractor has sufficient controls (e.g., encryption, device identification, vulnerability assessment) in place to ensure only authorized use and data privacy;
  - j. all laptops used by Contractor to access or store CEII, CIP, PHI or PII shall be encrypted.
  - k. all records and files containing PII, PHI, CEII or CIP information that will travel across public networks or will be transmitted wirelessly, shall be encrypted.
  - l. Contractor has business continuity plans in place that address common events including heavy absenteeism for an extended duration (i.e., a pandemic) and disaster recovery plans and Contractor periodically tests these plans to ensure their effectiveness.
  - m. Eversource has the right to audit Contractor's computer systems to ensure all such systems and Eversource information stored on such systems are managed by Contractor in accordance with the requirements set forth in these Requirements.
4. The following provisions related to information security are hereby added to the General Terms and Conditions or agreement to which these Requirements are attached:
  - a. Contractor shall comply with "best industry practices" relating to electronic information security for the Information within Contractor's control and shall be liable for any Eversource Confidential Information that is lost, stolen or disclosed without authorization while in Contractor's control;
  - b. Contractor shall comply with all federal and state laws and regulations applicable to the type of Confidential Information that Contractor electronically transmits, receives, hosts, stores, maintains, processes, or otherwise has access to. In the event that several laws or regulations apply to any of the Confidential Information being managed by Contractor, the more stringent law and requirement shall apply to all such Confidential Information (e.g. if a Contractor manages PII information applicable to any Eversource customer or employee, the more stringent standards of any applicable state or federal laws regarding such PII information shall apply to all customer or employee information being managed by Contractor);
  - c. Contractor shall obtain written authorization from Eversource prior to sending, communicating, delivering or transmitting Confidential information to a subcontractor or an affiliate;



- d. Insurance: Contractor warrants that it will maintain sufficient insurance coverage to enable it to meet its obligations created by this Agreement and by law. Without limiting the foregoing, and in addition to any other insurance requirements set forth in the Agreement with Contractor, Contractor will maintain (and shall cause each of its agents, independent contractors and subcontractors performing any services hereunder to maintain) at its sole cost and expense at least the following insurance covering its obligations under this Agreement:
- i. Professional Liability Insurance with a combined single limit of not less than Five Million Dollars (\$5,000,000) per occurrence. Such insurance shall cover any and all errors, omissions or negligent acts in the delivery of products and services under this Agreement. Such errors and omissions insurance shall include coverage for claims and losses with respect to network risks (such as data breaches, unauthorized access/use, ID theft, invasion of privacy, damage/loss/theft of data, degradation, downtime, etc.) and intellectual property infringement, such as copyrights, trademarks, service marks and trade dress.
  - ii. The Professional Liability Insurance retroactive coverage date shall be no later than the Effective Date. Contractor shall maintain an extended reporting period providing that claims first made and reported to the insurance company within two (2) years after termination of the Agreement will be deemed to have been made during the policy period.
  - iii. Contractor shall ensure that (i) the insurance policy listed above contain a waiver of subrogation against Eversource and its affiliates, (ii) the Professional Liability policy names Eversource and its affiliates and assignees as additional insureds, and (iii) all policies contain a provision requiring at least thirty (30) days' prior written notice to Eversource of any cancellation, modification or non-renewal. Within thirty (30) days following the Effective Date, and upon the renewal date of each policy, Contractor will furnish to Eversource certificates of insurance and such other documentation relating to such policies as Eversource may reasonably request. In the event that Eversource reasonably determines the coverage obtained by Contractor to be less than that required to meet Contractor's obligations created by this Agreement, then Contractor agrees that it shall promptly acquire such coverage and notify Eversource in writing that such coverage has been acquired. All insurance must be issued by one or more insurance carriers Best rated A- or better. Contractor's insurance will be deemed primary with respect to all obligations assumed by Contractor under the Agreement.
- e. To the extent applicable, Contractor shall comply with Eversource's Customer Service and/or Human Resources privacy policies and Corporate Information Security procedures, as such policies and procedures may be amended from time to time;

## 5. Security Incident Management:

- a. Eversource's Corporate Information Security (CIS) assists in responding to and investigating incidents related to misuse or abuse of Eversource or customer information technology resources. This includes computer and network security breaches and unauthorized disclosure or modification of electronic utility or personal information. In the event of a security incident concerning a computer hosting sensitive Eversource or personal data, Contractor must take immediate action to report the incident to CIS *as soon as the incident is suspected. Examples of incidents to be reported include, but are not limited to, suspected network breaches or theft/loss of a computer.*
- b. **Contractor should IMMEDIATELY CALL**, regardless of the day or time the Corporate Information Security at (860) 665 - 4357 (24x7); Please **ALSO** email [sharcis@eversource.com](mailto:sharcis@eversource.com) and Eversource's Chief Compliance Officer, Duncan MacKay, [duncan.mackay@eversource.com](mailto:duncan.mackay@eversource.com) with details of the suspected exposure. Please **DO NOT** simply leave voicemail or send email - please ensure you reach an employee, because it is **CRITICAL** that Eversource begins response procedures immediately.
- c. **DO NOT** take any other action until advised by the CIS provided however Contractor shall not be restricted from taking commercially reasonable efforts to avoid or limit the damage to Eversource information or systems caused by an incident if CIS is advised of such efforts at the time of or before they are undertaken.
- d. **DO NOT** talk about the incident with any other parties until you are authorized as part of the process outlined in this document.
- e. When CIS is notified, it will advise and assist in containing and limiting the exposure, in investigating the breach or attack, in obtaining the appropriate approvals, and in handling notification to the affected individuals and agencies. The incident still is the responsibility of the Contractor experiencing the exposure; CIS' mission is to provide assistance and guidance to the Contractor to appropriately and timely resolve any incident.

**EVERSOURCE ENERGY  
GENERAL TERMS and CONDITIONS  
CONSULTING SERVICES**

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**1. DEFINITIONS.**

**All capitalized terms used herein, or elsewhere in the Agreement, shall have the meanings ascribed to them in this Article 1, unless such terms are otherwise defined in the Agreement. The terms "include(s)", "included" and "including" are used without limitation.**

- 1.1 ACCEPTANCE: The Owner's determination that the Consultant has completed the Work in compliance with the Agreement requirements and satisfied the requirements as applicable, in Article 11 "REQUIREMENTS FOR ACCEPTANCE."
- 1.2 AFFILIATE: Any company or other business entity that (i) controls, (ii) is controlled by or (iii) is under common control with a Party or its parent. A company or other business entity shall be deemed to control a company if it has the power to direct or cause the direction of the management or policies of such company or other business entity, whether through the ownership of voting securities, by contract, or otherwise.
- 1.3 AGREEMENT: The collective term used to describe all documents comprising each agreement between the parties for the Work, including the Order, General Terms and Conditions, the Exhibits and Attachments to the General Terms and Conditions, Special Terms and Conditions (if applicable), Specifications, any items specifically incorporated by reference and/or issued (including any documents issued with respect to any change order, modification or amendment) or provided by Owner to Consultant in connection herewith, and any amendments to the foregoing agreed to in writing by the parties. If the Order that references this Agreement inadvertently also references standard terms, PO General Terms and Conditions Rev. 1 (04.02.15) ("PO GTCs"), such PO GTCs shall not apply or bind either party and shall be superseded by the terms of this Agreement.
- 1.4 BUSINESS DAYS: Any day other than Saturday, Sunday and days observed as legal holidays by the federal or state government applicable to the Owner's Site(s) of Agreement performance.
- 1.5 CONFIDENTIAL INFORMATION: Confidential and/or proprietary information of a Party to this Agreement. Owner's Confidential information includes written, oral, or electronic information and Information containing personal information, personal financial information, employee or customer information, personally identifiable information, protected health information, proprietary information or any other information provides to Consultant, including, without limitation, business plans, marketing strategies, bidding activities, commercial, technical and performance information, contracts, financial Information, research documentation, information about investors or any company or individual with whom Owner does business, information considered by Owner to be a trade secret and/or of a commercially valuable and sensitive nature or information that may otherwise be deemed confidential by law or regulatory agency, including Information described in Section 34.9 "CONFIDENTIAL INFORMATION". The parties intend that the designation of Consultant's Information as Confidential Information shall be limited to non-public financial information and other non-public information that has unique commercial value and was developed independently from the Work.
- 1.6 CONSULTANT: The entity issued an Order by Owner.
- 1.7 CONSULTANT RESOURCES: Consultant's and any Subcontractor's employees, contract employees, consultants, agents, and all other persons of entities employed by or under the control of Consultant or any Subcontractor.
- 1.8 CONSULTANT'S REPRESENTATIVE: The individual identified by Consultant with authority to act on behalf of Consultant in performance of the Agreement.
- 1.9 DIRECT ACTUAL COSTS: Reasonable direct expenses actually incurred, supported with adequate documentation, to perform a task.

- 1.10 ENVIRONMENTAL LAWS: Shall mean all applicable laws and any administrative or judicial interpretations thereof relating to: (a) the regulation, protection or use of the environment; (b) the conservation, management, development, control and/or use of natural resources and wildlife; (c) the management, manufacture, possession, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of, or exposure to, any Hazardous Materials; or (d) noise.
- 1.11 RESERVED.
- 1.12 EVERSOURCE: Eversource Energy Service Company, a Connecticut corporation, for itself or as agent for its Affiliates, dba Eversource Energy.
- 1.13 FINAL ACCEPTANCE: Owner's written acknowledgement, determined in its sole discretion, that Consultant has completed all or a specified portion, if required or contemplated by the Agreement, of the Work in accordance with the requirements of the Agreement.
- 1.14 FINAL PAYMENT: That payment to be made to Consultant by Owner after Final Acceptance.
- 1.15 HAZARDOUS MATERIALS: The collective term used to describe (a) any petrochemical or petroleum products, oil, waste oil, asbestos in any form that is or could become friable, urea formaldehyde foam insulations, lead-based oil paint and polychlorinated biphenyls; (b) any products, mixtures, compounds, materials or wastes, air emissions, toxic substances, wastewater discharges and any chemical, material or substance that may give rise to liability pursuant to, or is listed or regulated under, or the human exposure to which or the release of which is controlled or limited by applicable Environmental Laws; and (c) any materials or substances defined in Environmental Laws as "hazardous", "toxic", "pollutant", or "contaminant", or words of similar meaning or regulatory effect.
- 1.16 INFORMATION: All intellectual property, computer software and documentation, studies, data, reports, documents, designs, plans, drawings, calculations, test results, Specifications, electronic communications and data, or other information, in whatever form or media. This includes any patents, trademarks, service marks, copyrights, or trade secrets or any devices, designs, methods, or written works developed or capable of being developed during the course of this agreement.
- 1.17 ORDER: The document issued by Owner for specific Work, which shall be a Purchase Order for any procurements by such Owner. Any PO GTCs that may be referenced in the Order shall be excluded from the Agreement to which these General Terms and Conditions are referenced or attached and are hereby deleted. Any additional or conflicting terms and conditions in Consultant's confirmation thereof, or Consultant's documentation, including invoices, are hereby expressly rejected and excluded from the Agreement, are inapplicable to the Agreement, shall not be considered part of the Order(s), and shall be of no force and effect.
- 1.18 OWNER: "Owner" shall mean Eversource or its affiliated company or companies listed in the "Furnish and Ship To" block on the face of the first page of the Purchase Order under which the Agreement is issued, or the Eversource Affiliate that has ordered the Work. Each Owner shall be solely responsible to Consultant for Work awarded by such Owner. No Eversource Affiliate that is not the Owner as to any particular Work awarded shall be jointly and severally liable for Owner obligations hereunder with respect to such Work.
- 1.19 OWNER'S REPRESENTATIVE: The individual identified by the Owner to be the Owner's primary contact and representative for matters relating to the Work.

- 1.20 PARTY: Each of Owner and Consultant
- 1.21 SERVICES: A specific service furnished by or on behalf of Consultant under the Agreement and as part of the Work. The Services are specified in the Agreement documents.
- 1.22 SITE: The location other than Consultant's facilities at which the Work is to be performed. The Site can include Owner's property, Owner rights of way, or other property not owned by Owner where Work is to be performed.
- 1.23 SPECIAL TERMS AND CONDITIONS: The Special Terms and Conditions, if any, attached hereto and made a part of the Agreement.
- 1.24 SPECIFICATIONS: The Work requirements, specifications or technical specifications, which may include instructions, scope or statement of work, written requirements for materials, equipment, construction, systems, standards, Information and workmanship for the Work and performance of Services, as provided, supplemental or revised from time to time by Owner.
- 1.25 SUBCONTRACTOR: Any subcontractor, independent contractor, licensor or supplier, at any tier, who furnishes materials, supplies, facilities and/or Services to Consultant to meet Consultant's obligations to perform Work under the Agreement.
- 1.26 WORK: The terms used to describe collectively, all materials, Information and Services as referenced in the Agreement documents, and all related duties, obligations and responsibilities undertaken or required to be undertaken by Consultant under the Agreement.

## **2. CONSULTANT'S BILLING RATES**

Whenever Consultant performs Work on a time and materials basis (including but not limited to Work performed as a change or addition to the scope of Work described in the Agreement) Consultant shall be compensated at the billing rates set forth in the Order. Any adjustments to billing rates that are in compliance with Agreement terms must be provided to Owner for review and approval in the form of a new rate schedule in advance of any invoicing based on such new rates. Owner may reject any invoices which contain billing rates that are inconsistent with Owner's approved rate schedule on file.

## **3. TERMS OF PAYMENT**

- 3.1 Owner shall pay all undisputed charges indicated in properly itemized and supported invoices for Work performed by Consultant and Accepted by Owner in accordance with the terms of the Agreement, within thirty (30) days after receipt of invoice by Owner. If Owner disputes a portion of an invoice, at Owner's request Consultant shall submit a revised invoice for the undisputed amount and Owner shall pay such undisputed portion within thirty (30) days after receipt thereof. Upon Owner's request, Consultant shall provide documentation regarding un-vouchered liabilities including: a) the estimated dollar amount of all Work performed but not invoiced for that month or previous months, and b) any invoice submitted but not yet paid. Documentation must include Owner's Order number and, if applicable, release number.
- 3.2 Consultant must invoice for Work in a timely fashion and within the period specified by Owner. Subject to Owner's invoicing instructions, Contractor shall issue its final invoice to Owner within one hundred eighty (180) days of the completion of the Work being invoiced
- 3.3 Each invoice shall (a) be certified in writing as correct by Consultant's Representative; (b) be itemized (with reasonable detail and supporting documentation for any authorized reimbursable expenses in excess of \$25.00 per receipt) to fully describe each element of cost charged to Owner and any negotiated early payment discounts and (c) if applicable, contain a certification acceptable to Owner to the effect that all Subcontractors have been paid in full for completed Work as reflected in the immediately preceding invoice. For time and material Work, Consultant shall bill in accordance with Owner's billing instructions.

- 3.4 Owner may withhold payment of all or part of any invoice to such extent as may be necessary to protect itself from loss caused by: (a) defective Work not remedied; (b) claims filed or reasonable evidence indicating probable filing of claims by other parties against Consultant and/or Owner in connection with the Work; (c) failure of Consultant to make payments properly to Subcontractors for material, labor or equipment; (d) reasonable indication that the unpaid balance is insufficient to cover the cost to complete the Work; (e) reasonable indication that the Work will not be completed within the Agreement schedule; (f) unsatisfactory performance of the Work by Consultant; (g) failure of Consultant to perform any of its obligations under the Agreement; or (h) failure of Consultant to pay any amounts due Owner. Owner shall notify Consultant of the grounds for any withholding, and when the above grounds are removed, or Consultant provides performance assurance satisfactory to Owner that will protect Owner for the amount withheld, payment will be made of the amounts withheld. When deemed reasonable by Owner, Owner may use such funds to rectify the situation causing the withholding of funds.
- 3.5 To the extent permitted by law, Owner shall have the right to set-off against any sums due Consultant under the Agreement any claims Owner may have against Consultant under the Agreement, or under any other contract between Owner and Consultant, or that Owner may otherwise have against Consultant without prejudice to the rights of the parties with respect to such claims. In the case of Work incorrectly performed or incomplete, an equitable deduction from the Agreement price may be made.
- 3.6 Except for Work performed at a fixed price, Consultant shall make available to Owner during the Work and for a period of three (3) years following Final Acceptance of all Work, all source documents necessary to verify the elements of all billable charges, including but not limited to: each worker's name, charge classification, and hours worked; computer usage summaries; and original documentation of all reimbursable expenses (e.g. receipts for travel, business expense and employee expense). Upon five (5) business days prior notice by Owner, this information shall be available for audit by Owner during normal business hours, at Consultant's principal office or at any other location agreed to by the parties.
- 3.7 RESERVED
- 4. TAXES.**
- 4.1 Taxes on Owner's Purchases from Consultant. Consultant's price(s) and any Billing Rates that apply under the Agreement include all tariffs, imports or similar duties but exclude any and all present and future Federal, state, county, municipal or other jurisdiction's sales, use, excise or other taxes that may apply to the Work and Owner's purchase of the Work and any applicable present and future Federal, state, county, municipal or other jurisdiction's sales, use, excise or other taxes shall be included in invoices and separately identified and itemized. The Owner shall provide any applicable tax exemption certificates to the Consultant upon the Consultant's request.
- 4.2 Taxes on Consultant's Purchases. If Owner informs Consultant that Owner has a tax exemption certificate or a direct pay permit that applies to a specified portion of the Work, Consultant shall notify its Subcontractors and suppliers that their Services performed for, materials supplied for Consultant's use in, and/or Equipment supplied for installation as part of the specified "tax exempt portion" or "direct pay portion" of the Work are either exempt from sales and use taxes or Owner pays such taxes directly. Consequently, these Subcontractors and suppliers should not collect such taxes from Consultant and Consultant's prices and Billing Rates to Owner should reflect such tax exemption or Owner's direct payment on Consultant's purchases from Subcontractors and suppliers for the tax exempt or direct pay portion of the Work. Subcontractors and suppliers providing Services, materials and or Equipment for any portions of the Work that are neither tax exempt nor direct pay shall apply any normally applicable sales or use taxes to such "normal tax" portions of the Work and Consultant's prices and Billing Rates will be deemed to include any and all applicable taxes on such normal tax portions of the Work. If Owner does not inform Consultant

that it has a tax exemption certificate or a direct pay permit that applies to a portion of the Work, Consultant should presume that its purchases from Subcontractors and suppliers associated with the Work are subject to any applicable sales and/or use taxes on such purchases and Consultant will be deemed to have included any and all applicable taxes on its purchases from Subcontractors and suppliers in the prices and Billing Rates stated in the Agreement provided that any Billing Rates using markup percentages will not apply to taxes paid for such purchases.

4.3 Income, Property and Payroll Taxes. Notwithstanding any provision of the Agreement, Owner shall not be required to pay or reimburse Consultant for any taxes levied against Consultant's income, property or payroll.

4.4 RESERVED.

**5. CHANGES AND ADDITIONS.**

5.1 Either Party may request changes or additions to the Work by submitting a written request to the other. Changes requested by Consultant shall not, however, be implemented until approved in writing by Owner. All changes shall be made in accordance with approved Owner procedures included in the Agreement documents or otherwise provided to Consultant.

5.2 Owner shall have the right to require Consultant to delete from, change or add to the Work, in each case to the extent that any such deletions, changes, additions or other alterations are of the character described in the scope of Work, and to the extent such deletions, changes or additions are within the general expertise of Consultant Resources performing the Work. If such deletions, changes or additions are scheduled to be completed by or within six (6) months following the then-scheduled completion date for the Work as specified in the Agreement, such Work shall be performed at Consultant's time and material rates in effect for the Agreement, unless the parties agree in writing to another method of compensation.

5.3 If a deletion, change or addition will increase or decrease the cost or time required to complete the Work, the Party requesting the change or addition will set forth in its request the appropriate adjustment to compensation or completion deadlines. Written acceptance by the Party receiving the request for change or addition shall be a binding resolution between parties of the issues set forth in the request.

5.4 At no time shall the Work be delayed by Consultant due to a dispute between the parties concerning the cost or time required to accomplish a deletion, change or addition requested by either Party.

5.5 Consultant shall not commence or undertake any portion of any Work for which it contends that any extra compensation or schedule adjustment is or will be owed or due or payable, without prior written authorization from Owner, and such authorization shall be required for payment of any extra compensation to, or adjustment of any schedule requirement for the benefit of, Consultant. In all instances, Consultant shall orally notify the Owner's Representative of any circumstances that could result in a change in the scope of the Work (or a claim therefor) as soon as possible after the occurrence of the event or incident, and in writing within twenty-four (24) hours after such occurrence. Thereafter, Consultant shall submit to Owner appropriate detailed supporting documentation, justifying the basis for the claim, within ten (10) Business Days after the date of the event or incident giving rise to such claim. Without relieving Consultant of its obligations hereunder, any claims by Consultant for increased compensation or extension of completion deadlines shall be irrevocably waived and released unless Consultant provides such immediate oral notice and twenty-four (24) hour written notice and thereafter submits such detailed supporting documentation for the claim to Owner within such ten (10) Business Day period.

**6. INFORMATION.**

6.1 If Consultant is required to provide Information, complete and accurate Information shall be submitted in sufficient time for review and approval by Owner prior to starting Work affected by such documents. All Work shall conform to the details shown on Information approved by Owner.



- 6.2 Once Information has been approved by Owner, Consultant shall not make any changes in Information without the prior written approval of Owner.
- 6.3 Consultant shall immediately notify Owner and request additional instruction whenever Owner-provided Information is found to be unclear, incorrect or conflicting. Consultant shall not undertake any Work based upon such Information until such discrepancy has been resolved by Owner.
- 6.4 Preliminary, certified for manufacture, certified for construction and as-built drawings shall be submitted to Owner for approval in the form requested by Owner. Any drawing shall be produced in accordance with any Specifications and acceptable industry practices and shall be legible such that Owner is able to clearly distinguish all characters and lines.
- 6.5 For Work that includes Information that is not prepared exclusively and solely for Owner, Consultant shall retain title to any such Information (excluding any portion thereof that contains Owner's Confidential Information) that is subject to Consultant's patents, copyrights, trademarks, service marks, intellectual property rights or proprietary interests provided that Owner shall have unrestricted and non-exclusive rights and license to use such Information. For Work that includes Information that is prepared exclusively and solely for Owner, all such Information is the proprietary Information of Owner and shall be subject to the requirements applicable to Owner's Confidential Information as set forth in Article 34 "CONFIDENTIAL INFORMATION" herein, whether or not each such document is so identified.
- 6.6 Consultant shall be responsible for the completeness and accuracy of the Information it provides and shall correct, at its expense, all errors or omissions therein. Without limitation of any and all other rights and remedies available to Owner, the reasonable cost necessary to correct matters attributable to such errors shall be chargeable to Consultant.
- 6.7 Consultant shall provide Owner with all Information necessary for Owner's use and understanding of the Work and the installation, operation, maintenance and repair thereof, and to allow Owner to satisfy any legal process, or any filing or disclosure requirement required under law or regulation or requirement of a governmental body. Except for Information deemed to be proprietary to Consultant under the terms of the Agreement, and except as set forth in this Article 6, all Information supplied or delivered to Owner pursuant to the Agreement shall be the property of Owner. Consultant may retain for its records only, copies of any Information furnished to Owner, and unless otherwise agreed to by the parties, shall treat such Information in accordance with the requirements applicable to Owner's Confidential Information.
- 6.8 Consultant shall keep such full and detailed accounts for proper financial management under this Agreement as Owner may reasonably request. Consultant shall also promptly provide other information, copies of such reports, and other information reasonably requested at no cost to Owner.

**7. ELECTRONIC DELIVERY OF INFORMATION.**

Owner and/or Consultant may agree to exchange business data or information electronically using a point-to-point connection or a value-added network either directly or through a third-party E-Business provider (collectively, "E-Business"). The parties recognize and agree that the electronic transmission of information, including attachments, and access to E-Business systems by Owner employees, cannot be guaranteed to be secure from third party interception, error free or free from viruses or other damaging computer code, and that such information could be intercepted, corrupted, infected, lost, destroyed or incomplete, or otherwise be adversely affected during transmission or harmful to the recipient's computer system. Owner and Consultant have each taken steps within their organization to reduce the foregoing risk, consistent with the industry practices; however, there can be no assurance that outgoing E-Business is free of the foregoing faults or that engaging in E-Business will not create any harm to electronic systems. If Consultant

agrees to transmit information or documents relating to this Agreement using E-Business, Consultant shall be deemed to have accepted and be bound by the terms of this Agreement.

**8. DELAYS.**

8.1 Schedule Commitment/Notice of Delay. Time is of the essence with respect to the performance of the Work. Each Party shall give the other prompt written notice of any circumstances that may delay performance of the Work including any Force Majeure (as defined in Section 9.1). Consultant shall notify Owner's Representative of any such circumstance orally as soon as possible after such circumstance occurs and in writing within twenty-four (24) hours after the occurrence of such circumstance. Consultant shall record the cause of any resulting delay and the time lost in its reports and in its time sheets and shall submit such reports and time sheets to Owner's Representative.

8.2 Delays in Performance for Reasons Other Than Force Majeure.

8.2.1 Owner may at any time request Consultant to delay performance, fabrication or delivery of all or any portion of any Work to be provided under the Agreement. Consultant shall use its best efforts to accommodate such delay. However, if Consultant is unable to accommodate all or a portion of Owner's request, it shall notify Owner in sufficient time for Owner to take alternative measures.

8.2.2 RESERVED.

8.2.3 If Work or any portion thereof is ready for performance, but performance is delayed beyond the scheduled performance by Owner, the parties will use good faith efforts to negotiate a change order to address the Work schedule and any Direct Actual Costs resulting from such delays.

8.2.4 Consultant shall complete the Work in accordance with the Work schedule. If the Work falls behind schedule due to acts or omissions of Consultant or any Consultant Resources, Consultant shall, at its sole cost and expense, use its best efforts to restore the Work to schedule, including but not limited to placing Consultant Resources on extended working hours, assigning additional resources to the Work, and establishing expedited, priority treatment for the provision of Services, necessary to complete the Work within the time set forth in the Agreement.

8.3 RESERVED.

8.4 RESERVED.

**9. FORCE MAJEURE.**

9.1 Neither Party shall be liable to the other for loss or damage resulting from any delay or failure of a Party to perform its contractual obligations due to conditions or circumstances which are beyond that Party's control, including: acts of God; war; acts of a public enemy; riot; civil commotion, sabotage; Federal, state or municipal action, inaction or regulation; strikes or other labor troubles (excluding those involving such Party's employees); fire; flood; accidents; epidemics; quarantine restrictions; embargoes; damage to or destruction in whole or in part of office equipment or manufacturing plant, to the extent such facilities are necessary to proper performance of the Party's obligations under any Agreement and alternate facilities are not reasonably available; and inability to obtain raw material, labor, fuel or supplies; provided however, that such failure or delay is not caused by that Party's failure to satisfy its obligations under the Agreement or could not have been prevented by reasonable precautions taken by the non-performing Party, or could not reasonably be circumvented by the non-performing Party through the use of alternate sources or plans or other means.

9.2 Force majeure shall extend the time for Consultant's performance to the extent such condition directly

affects completion of Work. Consultant shall use its best efforts to reschedule its Work to mitigate the effect of such condition and to eliminate such condition as soon as possible. If the Work falls behind schedule due to a Force Majeure, Owner may direct Consultant to accelerate the Work by whatever means Owner may deem necessary, including subcontracting Work or working additional hours or shifts, and Owner shall pay Consultant for the agreed Direct Actual Costs incurred by Consultant in connection with any such directed acceleration.

- 9.3 Neither this Article nor any other provision of the Agreement shall excuse the non-performance or delayed performance of Consultant due to any failure of the Consultant to prepare for the Work or due to any commercial impracticability experienced by Consultant, including market changes, increased costs or insufficient money or other resources.

**10. INSPECTION.**

10.1 RESERVED.

- 10.2 Consultant shall provide Owner timely notice of the date of all tests affecting the Work and test results and provide Owner timely delivery of intermediate or draft Work, as required. Owner's approval of Work shall in no way reduce or modify Consultant's obligations to meet performance and other requirements of the Agreement. By such approval, Owner in no way assumes any part of Consultant's responsibility for the satisfactory performance of Work.

- 10.3 Owner shall have the right to inspect the status of all Work at any time. No Acceptance of Work shall be construed to result from such inspections by Owner.

10.4 RESERVED

**11. REQUIREMENTS FOR ACCEPTANCE.**

Acceptance of Work shall be conditioned upon Consultant submitting to Owner's Representative the following:

11.1 RESERVED.

- 11.2 properly executed, unconditional waivers or releases of lien from Consultant and all Subcontractors, conditioned upon payment, who provide labor, materials, equipment or supplies for the Work;

11.3 evidence of satisfactory completion of Work;

11.4 all Information required under the Agreement; and

11.5 Return of all property provided by Owner.

**12. PARTIAL COMPLETION AND ACCEPTANCE.**

If at any time prior to Acceptance as referred to in Article 11 "REQUIREMENTS FOR ACCEPTANCE", any portion of the Work has been completed and if Owner determines that such portion of the Work is of value, Owner will, if applicable, issue to Consultant a certificate or other written acknowledgement of partial completion. Upon the issuance of such certificate or other written acknowledgement, or at any time thereafter, Owner may take over and use the portion of the Work described in such certificate and may exclude Consultant therefrom. The issuance of a certificate of partial completion or other written acknowledgement will not release the Consultant from any obligations under the Agreement unless such prior use delays the Work or increases its cost. In this event, the Consultant will be entitled to extra compensation or extension of time, or both, as Owner may determine.

**13. SUSPENSION OF WORK.**

Owner may at any time suspend the Work or any part thereof upon oral notice to Consultant. Such oral notice shall be confirmed in writing by Owner. The Work shall be resumed by Consultant promptly

after written notice from Owner to Consultant to do so. Owner will make payment for all Work completed and accepted by Owner as of the suspension date, in accordance with the agreed payment rates and milestones.

**14. TERMINATION FOR CAUSE.**

14.1 Without prejudice to any other right or remedy Owner may have under the Agreement, at law and/or in equity and upon providing written notice of such termination to Consultant, Owner may terminate the Agreement without any liability being owed thereby by Owner to Consultant, in the event of the occurrence of any of the following:

- 14.1.1 insolvency of Consultant;
- 14.1.2 filing of a voluntary petition in bankruptcy by Consultant;
- 14.1.3 filing of an involuntary petition in bankruptcy against Consultant;
- 14.1.4 appointment of a receiver or trustee for Consultant;
- 14.1.5 execution by Consultant of an assignment or any general assignment (other than an assignment undertaken in connection with a financing) for the benefit of creditors;
- 14.1.6 commencement of any legal proceeding against Consultant that, in Owner's opinion, may interfere with Consultant's ability to perform in accordance with the Agreement; or
- 14.1.7 Consultant consolidates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and/or sells, assigns or otherwise transfers the Agreement; in each case without Owner's advance written consent.

14.2 If Consultant fails to diligently perform the Work in accordance with the Agreement or if Consultant otherwise breaches any of the terms of the Agreement, in addition to Owner rights set forth in Section 14.1 above, and Section 25.7 regarding safety or environmental violations, Owner shall have the right without any liability being owed thereby by Owner to Consultant, upon giving Consultant written notice of default and allowing Consultant a period of five (5) Business Days, or such other period as may be agreed upon by the parties or as may be determined by Owner to be necessitated by exigent circumstances, to remedy such deficiency, and such default not being completely remedied, to: cancel the Agreement in whole or in part upon giving written notice to Consultant; and to complete the Work itself or to have the Work completed by another entity, with any additional cost associated therewith being the liability of the Consultant.

14.3 Upon receipt of any notice of termination as described in Section 14.1 or Section 14.2 above, Consultant shall immediately cease Work, commence demobilization of any affected Consultant Resources, and shall promptly settle the liabilities and claims arising out of the termination of subcontracts and orders.

14.4 Consultant shall promptly transfer title and deliver to Owner completed or partially completed Work and/or contract rights of Consultant relating to the Work, and Consultant shall execute and deliver such documents and take all such actions as Owner may require for the purpose of vesting in Owner such ownership, rights and benefits of Consultant with respect to the Work.

14.5 In the event any termination under this Article 14 is subsequently determined pursuant to the dispute resolution process set forth in Article 39 "DISPUTE RESOLUTION; NEGOTIATION; MEDIATION; ARBITRATION", to have been made without cause, such termination shall be deemed a Termination for Convenience under Article 15 hereof.

**15. TERMINATION FOR CONVENIENCE.**

15.1 Owner shall have the right to terminate and/or cancel the Agreement or all or any portion of the Work for any reason, or for Owner's convenience, and at its sole and exclusive discretion, upon at least one (1) day's prior written notice to Consultant, and the Agreement, or all or any portion of the Work, as the case may be, shall terminate and/or be cancelled on the effective date specified in Owner's notice. Upon such effective date, Consultant shall immediately cease Work, commence demobilization of any affected Consultant Resources, and, if requested by Owner, promptly remove from the Site all materials and equipment which have not been either fully or partially paid for by Owner. Consultant

shall promptly settle the liabilities and claims arising out of the termination of subcontracts and orders and shall use its best efforts to minimize any associated costs. After termination, Consultant shall cooperate with Owner to the fullest extent for the purpose of allowing Owner or its designee to fully perform all functions previously performed by Consultant under the Agreement.

- 15.2 Upon Owner's request, Consultant shall promptly transfer title and deliver to Owner completed or partially completed Work (including Information or other work product related to the Work) and/or contract rights of Consultant relating to the Work for which Owner has made payment, and Consultant shall execute and deliver such documents and take all such actions as Owner may require for the purpose of vesting in Owner such ownership, rights and benefits of Consultant with respect to the Work.
- 15.3 In the event of a termination under this Article 15, except as otherwise expressly agreed to in writing by the parties, Owner shall pay for the Work completed in compliance with the Agreement through the effective date of termination.

**16. OWNER'S REPRESENTATIVE STATUS.**

Owner's Representative will perform inspection of the Work and has the authority to stop the Work whenever such stoppage may be necessary to insure the proper execution of the Agreement. He/she also has authority to reject any and all Work that does not conform to the Agreement and to decide questions that arise in the execution of the Work. Owner's Representative will make decisions in writing within a reasonable time on all claims of Consultant and on all other matters relating to the execution and progress of the Work or interpretation of the Agreement documents.

**17. CONSULTANT'S SUPERVISORY DUTIES.**

- 17.1 Prior to commencing any Work, Consultant shall identify to Owner a Consultant's Representative authorized to receive all communications from Owner, provide all approvals or authorizations required from Consultant and act on behalf of Consultant in all matters concerning the Work. Owner reserves the right to require the removal and replacement of Consultant's Representative for any reason.
- 17.2 Consultant shall efficiently and continuously supervise its Consultant Resources required to complete the Work. Consultant shall be fully liable for the acts and omissions of Consultant Resources. Consultant shall provide an adequate and competent supervisory staff throughout the course of the Work.
- 17.3 Consultant shall at all times enforce strict discipline and good order among Consultant Resources and shall not employ any unfit person or anyone not skilled in the tasks assigned under the Agreement. Owner shall have the right to request that Consultant remove and replace (at no cost to Owner) any person determined by Owner in its discretion to be unqualified or unfit to perform the Work, in which case Consultant shall do so (including reassignment to work other than for Owner and/or Owner Affiliates to the extent allowable under Consultant's labor agreement(s) and Law).
- 17.4 In the event Consultant Resources are given access to any of Owner's computer systems or equipment or Owner Information (including, without limitation, Owner's Confidential Information), Consultant agrees not to use Owner's systems or equipment or such Owner Information for any purposes other than that contemplated in the Agreement. Consultant further agrees to keep confidential any Information it obtains in the course of performing Work under this Agreement and to utilize data security systems and procedures approved by Owner and compliant with Owner's IT Security Requirements and applicable law. Consultant agrees to cause its Consultant Resources to comply with applicable provisions of Owner's IT Security Requirements and policies and applicable laws and regulation.
- 17.5 For any Services to be performed on any Site, within five (5) Business Days of Owner's request, Consultant shall provide to Owner, the names, classifications and job locations of Consultant

Resources. Owner's requests and/or reviews concerning any Consultant Resources shall not be construed in any manner as creating any employment, contractual or other relationship between Owner and such person, or otherwise granting Owner control over such person and/or the performance of the related Work.

17.6 Consultant shall, subject to Owner approval, designate certain Consultant Resources as key personnel with respect to the Work. Consultant shall not remove, replace, or reassign such designated key personnel without the prior written consent of Owner, which shall not be unreasonably withheld.

17.7 **THIS SECTION IS APPLICABLE ONLY TO DISTRIBUTION OR TRANSMISSION SERVICES ON SITES.** In addition to the requirements of Section 17.5, Consultant shall provide to Owner, the names, classifications and job locations of Consultant Resources that were former employees of Owner or any of its Affiliates, that Consultant desires to assign to provide Services on behalf of Consultant and/or any Subcontractor at least three (3) business days prior to those Consultant Resources performing any such Services.

**18. INDEPENDENT CONTRACTOR.**

Consultant Resources shall perform all Work as independent contractors, and shall not be deemed to be the employees or agents of Owner for any purpose whatsoever.

**19. SUBCONTRACTING.**

19.1 Consultant shall provide Owner with notice of any Work that it desires to subcontract along with a list of proposed Subcontractors. Owner shall have the right to refuse any proposed Subcontractor and Consultant shall not enter into any such subcontract with any such Subcontractor as to which Owner has made an objection. Consultant shall not make any substitution of proposed Subcontractors prior to or during the term of this Agreement without prior written approval from Owner. Neither Consultant nor any Subcontractor shall assign any Work under this Agreement without the written consent of Owner.

19.2 Irrespective of Owner's consent or the terms of any agreement between Consultant and any Subcontractor, Consultant shall (a) be fully responsible to Owner for acts and omissions of Consultant Resources; (b) remain fully responsible for the full and faithful performance of the Agreement; (c) direct and control the activities of all Consultant Resources; (d) remain fully bound by all terms and conditions of the Agreement including but not limited to all requirements for indemnity and warranty. Consultant shall include all Agreement provisions related to any subcontracted Work in the written agreement between Consultant and such Subcontractor for such Work, including warranty, insurance, audit and indemnity provisions. Consultant shall be responsible for the satisfaction of all contractual and legal obligations to such subcontractor and supplier.

19.3 Owner shall have the right to request that Consultant terminate any subcontract and remove any Consultant Resources determined by Owner, in its sole discretion, to be unqualified or unfit to perform the Work or any portion thereof.

19.4 Nothing contained in the Agreement documents shall create any direct contractual relation between any Subcontractor and Owner.

19.5 Consultant shall not allow access to the Site(s) or any portion thereof under the control of the Consultant by any person not acting under the direction and control of Consultant, other than Owner, the Owner's Representative, other authorized representatives of Owner, other contractors engaged by Owner and governmental authorities.

19.6 RESERVED

**20. COMPLIANCE.**

- 20.1 Contractor and Contractor Resources shall comply with all laws, regulations and requirements applicable to the Work, including international, federal, state and local laws, and the laws applicable to any location where any Work is to be performed, constructed, manufactured, stored or delivered. Such compliance shall include environmental, human rights, labor, employment, non-discrimination and anti-corruption laws (including the Foreign Corrupt Practices Act), and all applicable maritime, customs, export, and import laws, requirements, rules and regulations, and the applicable laws, requirements, rules and regulations of the country of origin or destination, any intermediate country, and the United States in the performance of the Work. The country of any location where Work is to be performed, whether it is the country of origin or destination or any intermediate country must be a member of the International Labor Organization (ILO). The costs of such compliance with the foregoing requirements shall be borne exclusively by Contractor and Contractor shall defend, indemnify, and hold Owner harmless from any liabilities, damages, fines, penalties and costs arising from Contractor's noncompliance with this Article 20.
- 20.2 Contractor and Contractor Resources shall comply with Owner's requirements, procedures, and policies including without limitation those found in the Exhibits hereto, and as additionally incorporated by reference in the Order or Agreement documents and/or issued in connection with the Work and as in effect from time to time.
- 20.3 **THIS SECTION IS APPLICABLE TO WORK PERFORMED PURSUANT TO A FEDERAL GOVERNMENT CONTRACT OR FEDERALLY FUNDED CONTRACT:** In connection with its performance of Work pursuant to a federal government contract or federally funded contract, in addition to all other legal compliance obligations, Contractor shall comply with all laws and regulations specific to and applicable to such contracts, including without limitation, regulations and laws regarding employment and non-discrimination, Executive Order 11246 and the regulations issued pursuant thereto (generally Part 60-1 of Title 41 of the Code of Federal Regulations), unless exempted by said regulations. **The Equal Opportunity Clause set forth in 41 CFR Section 60 1.4(a), is hereby incorporated by reference. This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. This contractor and subcontractor shall abide by the requirements of 41CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.** Contractor and all of its Subcontractors shall comply with the provisions and regulations pertaining to nondiscrimination and affirmative action in employment (41 CFR Sections 60 1.4, 1.40, 1.41 and 1.42), and the filing of Standard Form 100 (EEO 1). Contractor certifies, in accordance with the requirements of 41 CFR Section 60 1.8), that its facilities for employees are not segregated. Further, Contractor will comply with the provisions of (unless exempted from) the notice posting requirements of Executive Order 13496 set forth in 29 CFR Part 471, Appendix A to subpart A, which is incorporated herein by reference.
- 20.4 Code of Business Conduct - Because Owner places such a high priority on ethical and legal conduct, Owner requires all Contractors and their Contractor Resources to read, understand and comply with Owner's Supplier Code of Business Conduct, available on the Eversource.com website. Owner values its relationships with its suppliers and contractors and shares the following core values with contractors and suppliers wanting to conduct business with Owner: 1) Maintain and adhere to the highest ethical standards; 2) Comply with all federal, state and local laws and regulations, as well as all of Owner's policies and procedures, including this Code; 3) Embed safety in every aspect of work performed; 4) Foster a diverse and inclusive work environment that ensures everyone is treated with respect and dignity 5) Avoid any and all conflicts of interest, and the appearance of such; and 6) Keep property, resources and information secure, and keep confidential Owner's customer, employee and shareholder information. Contractor's failure to conduct business in a manner that meets these standards

could result in a termination of the Agreement under Section 14.2.

- 20.5 For all Equipment and Services supplied by Contractor and used for Owner's high and medium impact Bulk Electric Systems (BES) and Cyber Systems as described in North American Electric Reliability Corporation (NERC) CIP Reliability Standards, including, without limitation CIP-013, Contractor shall comply with Owner's Supply Chain Cyber Security Risk Management Program requirements as set forth in the Contractor CIP Compliance Agreement, incorporated by reference if applicable to such Equipment and Services.

**21. SITE REQUIREMENTS.**

- 21.1 For all Work to be performed at a Site, Consultant Resources shall comply with Owner's requirements, procedures, and policies and training requirements, including among others those relating to safety, security, environmental practices and access authorization, currently in effect, copies of which are available upon request.
- 21.2 Owner shall have the right to place its forces or any other Consultant's forces at the Site to perform work not included in the Agreement. All Work performed by Consultant shall be undertaken in full cooperation with Owner's personnel or the personnel of other Consultants at the Site, in order to achieve the least possible interference with the continuity and efficiency of all Owner's interests or activities at the Site. Consultant's forces shall work in harmony with all such other forces, and in accordance with Owner's schedules.
- 21.3 Consultant represents that prior to commencing Work it has advised its forces of Owner's requirements, procedures and policies; satisfied the applicable training requirements; and conducted such inspections and made such inquiries as it deems necessary concerning the conditions at each Site which might affect Consultant's execution and completion of the Work. Consultant agrees and acknowledges that Information provided by Owner concerning Site conditions has been used for reference only and shall not be claimed to relieve Consultant from its obligation to independently assess the requirements of the Work.

**22. INCIDENTAL MATERIALS AND CONSUMABLES.**

Unless expressly set forth in the applicable Specifications, Contractor will use its facilities, tools and equipment, in its discretion, necessary to perform the Work (other than Equipment purchased by Owner) and Owner will have no right to use such tools, equipment or facilities and Contractor may substitute comparable tools, equipment and facilities for completion of the Work (but not components or materials of Equipment or Equipment purchased by Owner) provided that at all times, Contractor shall meet the Specifications and all Agreement requirements. Consultant, at its sole expense and prior to delivering consumables or materials incidental to performance of Work at the Site, shall inspect or test such consumables or materials to ensure compliance with the Agreement, including the Specifications.

**23. HAZARDOUS MATERIALS.**

- 23.1 Consultant shall provide to Owner's Representative or designee a written description of and purpose for the use of any products or processes in the Work that are Hazardous Materials or may result in the generation of Hazardous Materials. Such written submission must identify, prior to the start of the Work and to the satisfaction of Owner's Representative or designee, the practices used to minimize such generation and demonstrate that it has taken all possible steps to eliminate or reduce to the maximum extent possible such generation.
- 23.2 Consultant shall ensure the environmentally responsible management of any Hazardous Materials included in or resulting from the Work. In performing the Work, Consultant shall comply fully with all Environmental Laws. Consultant is solely responsible for the proper identification and labeling, documentation, handling, storage, minimization, processing and recycling of any and all such Hazardous Materials. Unless otherwise indicated, Consultant shall be responsible for manifesting,



transporting and removing from Site any and all Hazardous Materials. Consultant shall be liable for any and all costs incurred by Owner, at Owner's sole discretion, for the storage, handling, processing, removal and disposal thereof.

- 23.3 Consultant shall defend and indemnify Owner, its parent, and its Affiliates and their respective employees, trustees, shareholders, officers, and directors, as well as their respective agents and consultants and hold it and them harmless from and against any and all damages, claims, demands, or suits of any kind for injury to persons, including death, and damage to property suffered by any person (including Consultant Resources) or by any firm or corporation arising out of, or claimed to have arisen out of, any acts or omissions of Consultant and Consultant Resources related to or involving Hazardous Materials generated during the course of the Work or brought to the Site by the Consultant or Consultant Resources. This indemnification shall include any liability or claims related to the storage, handling, processing, release, or removal from Site of any such Hazardous Materials by Consultant, Consultant Resources, transporters, recyclers, or any treatment, storage or disposal facility used by Consultant or such other persons. Further, this indemnification shall include liability for any and all costs or penalties (including legal, attorney, administrative, or regulatory fees and expenses) incurred or imposed as a result of actions pursued by federal, state or local governments or agencies related, in any way whatsoever, to the management of such Hazardous Materials.
- 23.4 Consultant agrees to use the EPA identification number assigned to the Site at which Consultant is working. The use of such EPA number shall not constitute assumption of environmental liability by Owner. In the event Owner has no EPA number for the Site in question, Consultant shall apply for a temporary number.
- 23.5 No chemical consumable product may be delivered to any Site without prior written approval by the Owner's Representative or designee in the manner provided in the first paragraph of this Article 23. As a condition precedent to such pre-approval, Consultant shall identify to Owner's Representative any and all chemical consumable products that will be used in performing the Work or are listed on the Site's approved Chemical Consumables Products List. Such identification shall include a copy of the product's Material Safety Data Sheet (MSDS), the specific use and location of use, and the expected quantity that will be required to perform the Work. Owner's consideration of Consultant's request shall involve the products' health and safety hazards, environmental and fire hazards, potential for degrading Owner's systems or components, potential for creating Hazardous Materials, and availability of suitable alternatives. A substitute product may only be used following the receipt of express written permission by the Owner's Representative. Consultant is solely responsible for any costs or expenses incurred by Owner as a result of Consultant's use of a product that has not been specifically authorized.
- 23.6 Following completion of the Work, Consultant shall identify to Owner's Representative all materials or waste that it reasonably believes constitute Hazardous Materials. Final classification of such waste shall be at the sole discretion of Owner's Representative. Unless directed otherwise by Owner, Consultant shall promptly remove any and all equipment and consumables from the Site. In the event that Consultant fails to complete such removal in a timely fashion following completion of the Work, Owner may, at its sole discretion, retain any such material as property of Owner or arrange for its removal at the sole expense of Consultant. Such expenses to be borne by Consultant include, without limitation, the costs of laboratory testing, storage fees, processing, treatment, transportation, recycling, and disposal. The manifesting, transportation and removing from Site of any and all Hazardous Materials shall be effected by Consultant, at Consultant's sole cost and expense.

**24. RESERVED.**

**25. SAFETY PRACTICES. SECURITY, PROTECTION OF THE PUBLIC, WORK AND PROPERTY.**

- 25.1. Consultant and Consultant Resources shall be instructed in, familiar with and required to follow safety rules and regulations applicable to the Work being performed, and comply with (1) all Owner policies and procedures including, without limitation those found in the Exhibits hereto, and as additionally incorporated by reference in the Order or Agreement documents and/or issued in connection with

the Work, and as in effect from time to time ; and (2) those policies and procedures referenced in the Agreement or Order. Consultant shall coordinate site specific Personal Protective Equipment (PPE), arc flash protection and FR clothing requirements with the Owner. Consultant shall have the sole responsibility to see that Consultant Resources are so informed, properly trained and that safety practices are followed.

- 25.2. Consultant shall establish and maintain safeguards, controls, work rules, or other measures to protect the Owner's property that is placed under Consultant's control, from damage, harm, or sabotage for the entire time during the performance of the Work until Final Acceptance. Consultant shall fully comply with any applicable Owner Site rules. For all Work to be performed at a Site, Consultant Resources shall comply with Owner's requirements, standards, procedures, and policies and training requirements, including among others those relating to safety, security, environmental practices and access authorization, currently in effect, copies of which are available upon request or may be available electronically, through an Owner web-site. Consultant shall conduct safety briefings and job hazard assessments. Upon Owner's request, Consultant shall provide documentation, confirming Consultant's compliance with this Article 25, including OSHA logs, qualification requirements and training certifications, licenses and detailed job safety and hazard assessment job plans, and reports of accidents involving Consultant Resources during the performance of the Work on Owner's Site.
- 25.3. While performing all Work, Consultant shall, and shall ensure that Consultant Resources strictly observe and fully comply with all federal, state, and local safety laws, rules and regulations applicable to the Work and/or the Site. Consultant shall provide and maintain all necessary precautions for the protection and safety of the public. It shall continuously take all necessary precautions to protect Owner's property from injury or loss arising in connection with the Agreement. In addition, when performing Work in close proximity to Owner's employees, Owner's safety rules shall be applicable.
- 25.4. Consultant shall train all Consultant Resources who carry out Work in the vicinity of energized conductors and equipment, in approved methods of artificial resuscitation, before such persons begin any Work.
- 25.5. Except with respect to Hazardous Materials, for which the provision of MSDS is required, pursuant to Article 23 "HAZARDOUS MATERIALS", upon Owner request, Consultant shall furnish to Owner's Representative Material Safety Data Sheets (MSDS) for any other product intended for use with the Work and make copies of such MSDS available to Owner at the Site or other mutually agreed upon location. No product for which an MSDS submittal has been requested shall be used until the MSDS has been reviewed by Owner.
- 25.6. For any Work that takes place at Owner facilities, Consultant shall comply with Owner's security requirements then in effect. Consultant Resources shall strictly adhere to the security regulations and obey the directions of Owner's security personnel. Consultant shall develop and, after review and approval by Owner, implement a security program to account for and protect all tools and equipment under its sole and exclusive care, custody and control in the performance of the Work. Owner shall not be liable to Consultant for loss of or damage to such tools or equipment.
- 25.7. Owner may immediately suspend or terminate all or any portion of the Work, without any added cost to Owner, and with no adjustments made to the schedule for the Work, if Owner determines that any safety or environmental violations have occurred, including conditions that could result in injury to any individual or damage to property or to the environment.
- 25.8. RESERVED.
- 25.9. RESERVED.
- 25.10. RESERVED.

25.11. RESERVED

25.12. Contractor shall have obtained identity verification, criminal background checks (federal, state and county checks for prior 7 years) and drug tests for all Contractor Resources prior to using such Contractor Resources to perform Work at customer facilities or Owner Sites. Contractor shall not assign Work to Contractor Resources that have any record of convictions (including any record since employment with Contractor) for any felonies and misdemeanors involving violence, sexual offense, drugs, theft, computer crimes or identity theft, or otherwise present a risk of injury to any individual or damage to or loss of property.

25.13. RESERVED.

**26. DELIVERY, TITLE AND RISK OF LOSS TO EQUIPMENT AND MATERIALS.**

26.1 Whenever Consultant provides Work that will not be subject to further work by Consultant, title shall pass to Owner upon the performance and delivery of the Work as set forth in the Agreement documents and Acceptance.

26.2 RESERVED.

26.3 RESERVED.

26.4 RESERVED.

26.5 Consultant shall deliver the Work materials purchased by Owner to the location stated in the Agreement in accordance with the delivery dates and any schedule of performance provided in the Agreement, time being of the essence for each such delivery for which a date or a length of time is fixed for delivery.

**27. CLEANUP.**

For Work performed at any Site, Consultant shall at all times keep the Site free from accumulations of waste material or rubbish. Consultant shall remove at its sole cost and expense from the Site and from all public and private property all temporary structures, rubbish and waste materials resulting from its operations.

**28. RESERVED.**

**29. RESERVED.**

**30. REMOVAL OF EQUIPMENT.**

Except as required to comply with the directions of Owner, Consultant shall promptly remove all Consultant provided materials and supplies from the Site upon completion or termination of the Agreement subject to requirements set forth in Article 27 "CLEANUP". If Consultant fails to complete such removal within fifteen (15) days after notice from Owner, Owner may elect (i) to retain all or any portion of such remaining materials and supplies as its property, or (ii) to remove and dispose of all or any portion of such items at the expense of Consultant.

**31. INSURANCE BY CONSULTANT.**

As a condition to undertaking the Work, Consultant shall acquire, at its sole cost and expense, the following insurance coverage (or equivalent) from insurers with an A.M. Best rating of A- or better, with the indicated amounts and shall maintain such required insurance coverages during all Work and until the date of final payment under the Contract or Acceptance of all Work under the Contract, unless a longer period is specified below:

31.1 Workers' Compensation in the amounts mandated by law (statutory coverage) and Employers Liability

Insurance with limits of not less than \$1,000,000

- 31.2 Comprehensive or Commercial General Liability Coverage on Form CG 00 01 or its equivalent excluding Professional Liability but including Operations, Products and Completed Operations, Contractual Liability and Broad Form Property Damage Liability written in one or more layers with a combined single limit for Bodily Injury and Property Damage of not less than \$2,000,000 per occurrence and annual aggregate. Products and Completed Operations coverage shall remain in effect for a minimum of three (3) years from the date of final payment under the Contract or Acceptance of all Work under the Contract, whichever is later, unless the Work is to be performed solely in CT, in which case the required coverage should be in force for two (2) years from such date.
- 31.3 Automobile Liability Coverage, including all owned, non-owned, and hired vehicles, written in one or more layers with a combined single limit for Bodily Injury and Property Damage of not less than \$2,000,000 per accident. If the Contractor is transporting any hazardous materials, a Pollution Liability Broadened Coverage for Autos endorsement must be added to the Business Automobile Policy by ISO endorsement CA 9948 3/06 or its equivalent and MCS-90.
- 31.4 If applicable, Errors and Omissions coverage for professional Services and products provided by Consultant, including coverages for intellectual property infringement and related risks, with limit of not less than \$2,000,000 per occurrence and annual aggregate, which coverage Consultant shall maintain in effect for a period of at least seven (7) years following the final payment under the Contract or Acceptance of all Work Under the Contract, whichever is later.
- 31.5 All policies contemplated in this Article 31 other than Workers' Compensation and Errors and Omissions shall be endorsed to include, Owner, its affiliates and their respective directors, officers, employees and agents (including, the Owner's Representative), as additional insureds using ISO additional insured endorsement CG 20 10 11 85 or at a minimum CG 20 10 07 04 and CG 20 37 07 04 providing equivalent coverage for both ongoing and completed operations, if any, as respects any and all personal and/or bodily injury and/or property damage claims arising out of Contractor's operations hereunder. The limits required under this Article 31 may be satisfied by a combination of primary and excess (umbrella) coverage layers. The foregoing insurance policies, including Workers' Compensation, shall include a waiver of any right of subrogation of the insurers thereunder against the additional insureds thereunder, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under such policy. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with policy provisions.
- 31.6 Consultant shall provide certificates of insurance and copies of additional insured endorsements and all applicable endorsements to Owner to evidence Consultant's insurance policies within thirty (30) days of the award of any Contract but in no event later than prior to the commencement of any Work. Consultant shall ensure that its broker shall provide Owner with replacement certificates and additional insured endorsements evidencing required insurance coverage prior to the expiration of prior certificates. Failure to provide such certificates shall be grounds for withholding payment and/or termination of the Contract.
- 31.7 Such insurance coverage shall be primary and non-contributory to any other coverage available to Owner or its affiliates, and shall not be deemed to limit Consultant's liability under the Contract.
- 31.8 Consultant shall have and maintain in effect the insurances required by this Article 31 for the duration of the Contract and thereafter for any period of continuing contractual obligations, including Consultant's warranty obligations. In addition, Consultant and any Subcontractor whose scope of work may include professional services shall procure tail coverage through the applicable warranty period on each errors and omissions policy maintained in accordance herewith upon the expiration and/or

non-renewal thereof, unless Consultant's replacement errors and omissions policy provides continuing coverage for the Work through the applicable warranty period.

31.9 Consultant shall be solely responsible for payment of any and all deductible or self-insured retention amounts relating to any and all of the policies of insurance required by this Article 31, regardless of the number of losses.

31.7 For any Services to be provided by any Subcontractor, Consultant shall require such Subcontractor to provide the foregoing insurance coverages and amounts and comply with the requirements set forth in this Article 31, including additional insured, primary and non-contributory and waiver of subrogation.

**32. INDEMNIFICATION BY CONSULTANT.**

To the fullest extent permitted by law, Consultant shall be responsible for and shall indemnify, and shall defend and save Owner, its parent, and its Affiliates and their respective employees, trustees, shareholders, officers, and directors, as well as their respective agents and consultants (each, an "*Indemnified Person*") harmless from and against any and all costs and expenses (including all costs and expenses of litigation, as well as related attorneys' fees), losses, liabilities, fines, penalties, damages, claims, demands, judgments, awards, obligations, actions, or proceedings arising from the acts or omissions of Consultant Resources or related to the Work or Consultant's obligations under the Agreement Documents. Consultant further agrees to obtain, and maintain at its expense, such insurance as will insure the provisions of all indemnity obligations in the Agreement. Nothing in this Article shall derogate or reduce Consultant's obligations under Article 31 hereof.

**33. INFRINGEMENT OF PROPRIETARY RIGHTS.**

33.1 Consultant shall indemnify, defend and hold harmless Owner, its parent, its Affiliates and its and their employees, agents, officers, and directors from any and all liabilities, penalties, damages, claims, actions or proceedings based upon any allegation that (i) any portion or all of the Work furnished under the Agreement, or any use thereof for purposes intended by the Agreement constitutes an infringement of any patent, copyright, trademark or other proprietary interest or (ii) Consultant has, other than solely for Owner's benefit in connection with the Work, made use of Information in which a third party claims a proprietary interest which Information was obtained by Owner from third parties under agreements for confidentiality.

33.2 If Owner provides Consultant notice of a claim of infringement with respect to any material, equipment or Information used in connection with the Work (collectively, the "Product") or Owner's use of all or any portion of the Product is enjoined due to a claim of infringement, Consultant shall promptly and at its sole expense either (i) procure for Owner the right to continue using the Product or (ii) replace the Product with non-infringing and functionally equivalent Product, (iii) modify the Product so that it becomes non-infringing and functionally equivalent, or (iv) take such other action as is necessary to assure Owner's uninterrupted use of the Product.

**34. CONFIDENTIAL INFORMATION.**

34.1 Each Party acknowledges that it may be necessary to disclose Confidential Information to the other Party. Except to the extent set forth in this Article 34, or as otherwise agreed to in writing by the parties, each Party shall maintain the Confidential Information of the other Party in a secure and confidential manner. Consultant agrees to use Owner's Confidential Information solely for the provision of Work and to make Confidential Information available to its employees on a need-to know basis only, and to not disclose to third parties or to publish any of Owner's Confidential Information without Owner's advance written consent. Consultant also agrees to comply with all other applicable state, federal and local laws, regulations, codes and policies regarding the protection of Owner Confidential Information, and the avoidance of theft or fraud through the improper use or disclosure of such information, including, without limitation, Mass. Gen. Laws c93H and the regulations promulgated thereunder. Each Party shall advise its employees, Consultants, consultants, agents and those under its and/or their respective control of these requirements for confidentiality with regard to Confidential Information.

- 34.2 Consultant shall give immediate notice to the Owner of any incident that may cause Owner Confidential Information to be disclosed or otherwise used in an unauthorized manner. Such immediate notice shall be given first by telephone and shall be followed by a more complete written notice to be sent by express mail overnight courier by the close of business on the day that the incident took place and capable of delivery on the day following the date of the notice. Such notice shall set forth all relevant information regarding the incident, including the specific nature and extent of the disclosure / use, the measures taken and to be taken to retrieve and restore the Confidential Information and/or to otherwise prevent the unauthorized use or disclosure of the Confidential Information.
- 34.3 If Owner, within one hundred eighty (180) days of receipt of Consultant's Confidential Information, disputes the proprietary nature of such Information by written notice to Consultant, the parties shall consult to resolve such dispute. In the event that the parties are unable to resolve such dispute after an initial consultation, the Parties shall proceed to mediation and, if necessary, arbitration pursuant to the terms of Section 39 hereof.
- 34.4 Owner shall have the right, without Consultant's approval, to disclose Consultant's Confidential Information to the limited extent required (i) for financing, acquisition or conveyance of ownership share, licensing, construction, startup, commissioning operation, maintenance or repair of the facility at which the Work is performed, and (ii) to comply with any request or order of a governmental agency or court. Each party shall have the right to disclose the other party's trade secret or other Confidential Information (a) to federal, state, or local government officials, to their attorneys, or in a sealed court document, for the purpose of reporting or investigating a suspected violation of the Defend Trade Secrets Act of 2016; or (b) to their attorneys or in a sealed court document in connection with a lawsuit for retaliation by an employer for reporting a suspected violation of the Defend Trade Secrets Act of 2016. If Owner discloses Consultant's Confidential Information to any governmental agency or court, Owner shall, to the extent it does not violate or fail to comply with any such request or order, advise Consultant prior to disclosure and, at Consultant's sole cost and expense, cooperate in any effort by Consultant to minimize the amount of Confidential Information disclosed, secure confidential treatment of such Confidential Information, or seek permission from such governmental agency or court to revise the Confidential Information in a manner consistent with Consultant's interests, the interests of Owner, and in a manner that meets the requirements of the governmental authority or court.
- 34.5 Any Information transmitted to either Party will not be deemed Confidential Information if that Information is: (a) in the receiving Party's possession without restriction on disclosure prior to disclosure hereunder; (b) at the time of disclosure, generally available to the public without restriction on disclosure; (c) after disclosure, generally available to the public without restriction on disclosure, by publication or otherwise, through no fault of the receiving Party; (d) after the time of disclosure, received from a third party who imposes no obligation of confidentiality and who, insofar as the receiving Party can reasonably determine, did not acquire any such Confidential Information directly or indirectly from the other Party subject to requirements of confidentiality or (e) if such Party independently discovers or develops such Information..
- 34.6 Consultant shall notify Owner as soon as possible in writing if any Confidential Information provided to Owner has been changed to a non-proprietary status.
- 34.7 The provisions of this Article 34 shall also apply to Information that a Party identifies and establishes in writing to the others as having been obtained from third parties under agreements for confidentiality.
- 34.8 Owner may demand the return and/or disposal of its Confidential Information at any time upon giving of written notice to Consultant. Within fifteen (15) days of receipt of such notice, Consultant shall return all of the original Confidential Information and shall dispose of all copies, reproductions or extracts (both written and electronic) in its possession and in the possession of any representatives to whom it was disclosed using methods authorized by the National Association for

Information Destruction for the media on which the Confidential Information is stored. Except as may otherwise be agreed upon by the parties in writing, Consultant shall provide Owner with written certification of the return and/or disposal of such Confidential Information promptly following the return or disposal of such Confidential Information.

34.9 The provisions of this Article shall survive the termination of the Agreement and shall bind the parties and their successors and assigns.

34.10 **THIS SECTION IS APPLICABLE ONLY TO WORK RELATING TO GENERATION, TRANSMISSION AND DISTRIBUTION FACILITIES:** In addition to the foregoing confidentiality obligations, to the extent that Consultant obtains or generates any critical energy infrastructure information ("CEII"), as defined by Federal Energy Regulatory Commission ("FERC"), pursuant to 18 C.F.R. §388.13, in its performance of the Work, Consultant shall keep confidential any CEII applicable to Owner and the Work, and shall observe all obligations associated therewith applicable laws and regulations. To the extent any such Work involves critical cyber assets, Consultant agrees to be bound by and comply with the North American Electric Reliability Council ("NERC") Critical Infrastructure Protection ("CIP") standards. Consultant shall indemnify Owner for any liabilities or penalties arising from any failure to comply with the requirements of this Section 34.10 by Consultant, or its subcontractors, at any tier. In addition, upon request by Owner, Consultant shall execute an agreement confirming such compliance with the foregoing obligations.

**35. WARRANTY.**

35.1 Services Warranty.

35.1.1 Consultant warrants that any Services performed or provided by, through, or on behalf of Consultant as part of or in connection with the Agreement shall (i) be performed by Consultant Resources who are fully qualified and competent and whose recommendations, guidance and performance reflect professional knowledge, judgment, and performance in accordance with the highest professional standards applicable to the utility industry and the industry applicable to such Services; and (ii) comply with and conform to all provisions and requirements of the Agreement and to any and all provisions of any and all applicable laws.

35.1.2 Within the period of two (2) years after Final Acceptance of all Work under the Agreement, if Owner determines that any portion of the Services performed by, through, and/or on behalf of Consultant fails to comply with the warranties set forth above, or if a defect or error is discovered in any Information supplied with such Services, Consultant shall, at its sole cost and at Owner's option, (i) correctly re-perform such Services or correct the defect or error in the Information, or (ii) return to Owner the charges paid by Owner and attributable to such Services or defective or erroneous Information supplied. Owner shall have the right to set-off against other amounts due Consultant hereunder or otherwise any amount owed by Consultant to Owner under this Article 35.

35.1.3 RESERVED

35.2 Supplier Warranties

Consultant shall take all reasonable steps to transfer for the benefit of Owner all warranties or guarantees available from the suppliers of any portion of the Work.

35.3 Information Warranty. Consultant warrants that it has the full legal right, title and ownership of the Information furnished pursuant to the Agreement.

35.4 RESERVED

35.5 Completion Warranty. Consultant warrants that it shall complete the Work in accordance with the Work schedule. If the Work falls behind schedule due to causes attributable to Consultant or

Consultant Resources, Consultant shall, at its sole cost and expense, use its best efforts to restore the Work to schedule, including but not limited to the following measures: placing Consultant Resources on extended working hours; assigning additional personnel to the Work, and prioritizing Consultant's resources and obligations to ensure that the Work is completed on schedule.

35.6 Additional Warranty Provisions.

35.6.1 Reserved.

35.6.2 Owner shall notify Consultant in writing of any breach of warranty.

35.6.3 Reserved.

35.6.4 Reserved.

35.6.5 Corrective Work performed by Consultant shall be subject to the applicable warranty provisions of this Article. The warranty period for such corrective Work shall be the remainder of the original warranty period plus an additional two years.

35.6.6 The warranties provided for in this Article 35 shall apply regardless of where the Work is performed.

35.6.7 In the case of Work affecting government-owned property, warranties shall also be enforceable directly by the applicable government agency having jurisdiction.

35.7 Subcontractor Warranties.

35.7.1 Consultant shall obtain usual and customary warranties from Subcontractors. Such warranties shall be obtained for the benefit of Owner as well as for Consultant. Consultant shall ensure that the benefit of any warranty offered by any Subcontractor at any tier is passed through to Owner, shall provide a copy of the terms of any such Subcontractor warranty to Owner, and shall identify relevant Subcontractor contracts and otherwise actively assist Owner, as required or desired by Owner and without additional charge, in enforcing any such warranty in the event such enforcement should become necessary.

35.7.2 The existence and/or absence of any Subcontractor warranties, including compliance or non-compliance therewith, shall not affect or impair in any manner whatsoever Consultant's obligations to Owner hereunder.

**36. LIMITATION OF LIABILITY.**

36.1 CONSULTANT'S LIABILITY TO OWNER UNDER THE AGREEMENT WHETHER BASED UPON BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE SHALL BE THE SUM OF (i) FOR WARRANTY AND INDEMNITY OBLIGATIONS, THE REMEDIES DESCRIBED IN THE AGREEMENT, PLUS (ii) FOR DAMAGES CONSULTANT IS REQUIRED TO INSURE AGAINST, ANY RECOVERY AVAILABLE UNDER THE INSURANCE COVERAGES REQUIRED BY THE AGREEMENT PLUS (iii) FOR ANY ADDITIONAL DIRECT DAMAGES TO THE OWNER, AN AMOUNT EQUAL TO THE GREATER OF THE TOTAL OF ALL CHARGES PAID BY OWNER TO CONSULTANT UNDER THE AGREEMENT OR TWO MILLION DOLLARS (\$2,000,000). OWNER'S AGGREGATE LIABILITY TO CONSULTANT UNDER THE AGREEMENT SHALL NOT EXCEED, UNDER ANY CIRCUMSTANCES WHATSOEVER, THAT PORTION OF THE COMPENSATION DUE UNDER ARTICLE 3 "TERMS OF PAYMENT" THAT HAS NOT YET BEEN PAID BY OWNER WITH RESPECT TO THE WORK.

36.2 EXCEPT TO THE EXTENT ALLOWED UNDER THE INSURANCE, WARRANTY OR INDEMNITY PROVISIONS OF THE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES.



36.3 CONSULTANT WAIVES ALL CLAIMS AGAINST OWNER FOR ANY LIABILITY OR LOSS IN CONNECTION WITH: (i) PAYMENT OF ALL FEDERAL, STATE AND LOCAL TAXES OR CONTRIBUTIONS IMPOSED OR REQUIRED UNDER UNEMPLOYMENT INSURANCE, SOCIAL SECURITY AND INCOME TAX LAWS WITH RESPECT TO CONSULTANT'S WORK UNDER THE AGREEMENT; (ii) ALL LOSSES IN CONNECTION WITH ANY CLAIMS FOR LOST WAGES, SEVERANCE PAY, PENSIONS OR OTHER BENEFITS WITH RESPECT TO CONSULTANT'S WORK UNDER THE AGREEMENT; AND (iii) ALL CLAIMS FOR LIABILITY FOR DAMAGE TO CONSULTANT'S PERSONAL PROPERTY OR INJURY TO CONSULTANT RESOURCES IN CONNECTION WITH THE AGREEMENT.

36.4. The parties understand and agree that the liability of Consultant to Owner under the Agreement, at law, and/or in equity shall not be limited by the amount of insurance coverage required or made available pursuant to the provisions of Article 31 "INSURANCE BY CONSULTANT".

**37. RIGHTS AND LIABILITIES OF PRINCIPALS.**

All benefits, protections, indemnifications and other rights in favor of Owner under the Agreement shall also benefit, protect and indemnify the principals of Owner.

**38. RESERVED.**

**39. DISPUTE RESOLUTION; NEGOTIATION; MEDIATION; ARBITRATION.**

39.1 The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives with authority to settle the dispute and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Any Party may give the other written notice of any dispute, which notice shall include a summary of that Party's position and the name and title of the executive who will be representing that Party. Within twenty (20) days after delivery of the notice, unless otherwise agreed, the receiving Party shall respond with a summary of that Party's position and the name and title of the executive who will represent that Party. Within forty-five (45) days after the initial notice, unless otherwise agreed, the Parties' executives shall meet at a mutually acceptable time and place to attempt to resolve the dispute. All reasonable requests for information, essential to a matter of import in the dispute, made by one Party to the other in support of the negotiation will be honored, and all negotiations pursuant to this Article 39 shall be confidential and treated as compromise and settlement negotiations.

39.2 If the dispute has not been resolved by negotiation within sixty (60) days after the disputing Party's notice, or if the Parties failed to meet or arrange to meet within sixty (60) days, unless otherwise agreed, the Parties shall proceed to mediation under the then current CPR Mediation Procedure, and, unless otherwise agreed, will select a mediator from the CPR Panels of Distinguished Neutrals.

39.3 Any dispute arising out of or relating to this Agreement, including the breach, termination or validity thereof, that has not been resolved by a non-binding procedure as provided herein within ninety (90) days of the initiation of such procedure, unless otherwise agreed, shall be finally resolved by arbitration in accordance with the then current CPR Non-Administered Arbitration Rules or, at Owner's option, the then current CPR Administered Arbitration Rules. The Parties may mutually agree to arbitration in accordance with the then current CPR Expedited Arbitration Rules. Disputes involving amounts in the aggregate under Three Million Dollars (\$3,000,000), shall be decided by a sole arbitrator, and disputes involving amounts in the aggregate equal to or greater than Three Million Dollars (\$3,000,000), shall be decided by three arbitrators, unless the Parties mutually agree to a decision by fewer than three arbitrators. The selection of a single arbitrator shall be in accordance with Rule 5.3. The selection of three arbitrators shall be in accordance with the "screened" appointment procedure provided in CPR Rule 5.4, with each Party selecting one

arbitrator and the third arbitrator, who will serve as the panel chair, will be selected pursuant to CPR Rule 6. Unless otherwise mutually agreed, the arbitrators shall be selected from the CPR Panels of Distinguished Neutrals.

The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16, and judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof. Unless otherwise agreed to by the parties, the place of arbitration shall be at Owner's option, Hartford, Connecticut, Manchester, New Hampshire or Boston, Massachusetts.

- 39.4 Any award or determination made by the arbitrator(s) shall be subject to the limitations of liability set forth in this Agreement. The arbitrator(s) are not empowered to award damages in excess of compensatory damages and each party expressly waives and foregoes any right to punitive, exemplary or similar damages unless a statute *requires* that compensatory damages be increased in a specified manner. Each Party shall be responsible for its own costs and expenses, including attorney's fees. Unless otherwise directed in writing by Owner and to the extent permitted by law, Contractor shall continue performance of the Work in compliance with the Agreement notwithstanding the existence of any Dispute between the Parties. Nothing herein shall prejudice, impair or otherwise prevent Owner from receiving equitable relief pending the conclusion of any mediation and/or arbitration proceeding.
- 39.5 Each Party will proceed in good faith to conclude the arbitration proceeding as quickly as reasonably possible. If a Party refuses to participate in an arbitration proceeding as required by this Agreement, the other Party may petition any governmental authority having proper jurisdiction for an order directing the refusing Party to participate in the arbitration proceeding. All costs and expenses incurred by the petitioning Party in enforcing such participation will be paid for by the refusing Party. The parties hereby consent to the exclusive jurisdiction of the state or federal courts located within the State of Connecticut, State of New Hampshire or the Commonwealth of Massachusetts for enforcement of all arbitration procedures pursuant to this Article 39 and any other legal proceedings arising out of or relating to the Agreement and the transactions contemplated hereby.
- 39.6 Nothing herein shall prejudice, impair or otherwise prevent Owner from seeking equitable relief pending the conclusion of any mediation and/or arbitration proceeding.

**40. ADVERTISING.**

Unless authorized in writing by Owner or except as required by applicable law, Consultant shall not engage in any advertising, publicity or other promotional activity which directly or indirectly mentions or refers to the relationship between the parties or the Work furnished under the Agreement.

**41. BINDING EFFECT; ASSIGNMENT.**

The Agreement shall be binding upon the Parties and their respective successors and permitted assigns. Owner may assign this Agreement to any Affiliate of Owner. Consultant is not authorized to and shall not directly or indirectly (through an equity sale, merger or other transaction) sell, assign or otherwise transfer the Agreement, in whole or in part, or any of the Work to be performed hereunder, without the prior written consent of Owner, which may be granted or withheld in Owner's sole discretion. Without waiving any rights and remedies Owner may have against Consultant, upon discovering that Consultant has purported to sell, assign or otherwise transfer, in whole or in part, the Agreement or any of the Work to be performed, without the Owner's prior written consent, Owner may, at its sole option and in its sole discretion, deem such action to be binding and enforceable against such assignee, successor, or transferee, or may deem such action to be null, void, and of no force or effect.

**42. WAIVERS.**

The waiver by any Party of a breach of and/or other non-compliance with any provision of the Agreement shall not operate or be construed as a waiver of any subsequent breach or non-compliance.

**43. APPLICABLE LAW.**

43.1 The Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the State of Connecticut, without regard to its principles of conflicts of law *provided* that if the Site is located entirely outside of the State of Connecticut, then the Law of the State/Commonwealth where the Site is located (and where the Work is performed) may govern certain aspects of the enforcement of the rights and remedies of Owner (including legal process and procedure) with respect to such Work.

**44. NOTICES; DEMANDS.**

All notices required under the Agreement shall be in writing and shall be deemed to be given when received upon personal delivery, or if mailed, as of the date indicated on the receipt document provided by the mail carrier, if so delivered or if so mailed (a) with respect to Owner, to the individual set forth on the "Direct Inquiries" line on Owner's Order at the address set forth thereon; or (b) with respect to each of the Owner's Representative, Consultant or the Consultant's Representative, to the applicable individual set forth in the Special Terms and Conditions, at the address of such individual set forth thereon, unless otherwise indicated in the Agreement.

**45. RIGHT TO AUDIT.**

Owner shall have the right to inspect and audit all of Consultant's and any Subcontractor's books, records, correspondence, receipts, vouchers and memoranda relating to or affecting the Agreement. Consultant shall provide for such right to audit by Owner in all contracts with Subcontractors relating to the Work or the Agreement.

**46. DOCUMENT RETENTION.**

Except as set forth in Section 6.5 "INFORMATION", Article 34 "CONFIDENTIAL INFORMATION" and below in this Article 46, all Information shall remain the exclusive property of Owner, regardless of where it is stored. Consultant shall preserve Owner's Information in its care, custody or control for a period of six (6) years following Final Acceptance of the Work or return such Information to Owner in a form acceptable to Owner. Consultant shall not destroy any such Owner Information prior to the expiration of such six (6) year period absent Owner's prior written consent. Owner reserves the right to access such Owner Information at any time while such Information is in Consultant's possession and such Information shall be provided to Owner on a timely basis whenever requested, regardless of whether such requests are for audits, regulatory or legal proceedings such as lawsuits or arbitrations. Any Owner Information in Consultant's possession shall be disclosed to third parties only as necessary to comply with applicable laws and government orders or requests so long as Owner receives advance written notice of such disclosure and an opportunity to contest such requests. Consultant agrees to access Information in its possession only for the purposes of performing the Work and to operate or maintain its information systems and will take appropriate and Owner approved measures and precautions to protect against unauthorized access or disclosure. Consultant agrees for itself, and on behalf of any Subcontractor, to (a) access Owner Information in its, or in any Subcontractor's, possession only for the purpose of performing the Work on a Project, and (b) operate, maintain and/or take appropriate and Owner-approved measures and precautions to protect its information systems against unauthorized access or disclosure of Owner Information. Consultant shall be responsible for ensuring that Owner Information is protected from damage and/or loss while in the care, custody or control of Consultant and/or any Subcontractor, including making backups of Information and using disaster recovery best practices for any computer systems used to store Information. Owner reserves the right to audit Consultant to ensure such Information is managed in accordance with this Article 46. The foregoing obligations and restrictions regarding disclosure of Information in this Article 46 shall not apply to Consultant's Confidential Information, which shall be governed by Article 34 "CONFIDENTIAL INFORMATION" The provisions of this Article shall survive the termination of the Agreement and shall bind the parties

and their successors and assigns.

**47. SUPPLIER DIVERSITY AND SUBCONTRACTING PLAN.**

- 47.1. Owner fully supports the government's policies of ensuring that Small Disadvantaged Businesses (SDB), Women-Owned Small Businesses (WOSB), Service-Disabled Veteran-Owned Small Businesses (SDVOSB), Veteran-Owned Small Businesses (VOSB) and Businesses Located in and qualified as Historically Underutilized Business Zones (HUBZone) have maximum practicable opportunity to compete for contracts and subcontracts. Owner has and will continue to commit to filing annual subcontracting plans regarding the utilization of SDB, WOSB, SDVOSB, VOSB and HUBZone as contractors and subcontractors in accordance with Federal Acquisition Regulation (FAR) 52.219.
- 47.2. For all Work awarded to Contractor as a subcontractor under Owner's government contracts pursuant to FAR 19.704, Subcontracting Plan Requirements, and FAR Clause 52.219-9, Small Business Subcontracting Plan, Contractor shall be required to submit data and/or subcontracting plans regarding Contractor's utilization and intended utilization of such SB, SDB, WOSB, SDVOSB, VOSB and HUBZone during the term of the Agreement for such work as follows:

**Eversource Energy; Manager of Supplier Diversity Program; Procurement Department; P.O. Box 270; Hartford, CT 06141-0270.**

Contractor may be required to submit data and/or subcontracting plans upon request. Contractor shall supply requested documentation to Owner within a reasonable time after the request is made (but in no event more than fifteen (15) days after the request) and shall comply with such plan in performing the Work to the maximum practicable effort.

- 47.3. The text of FAR 52.219 may be accessed electronically at the following address: <https://www.acquisition.gov/far/>. To the extent applicable to Work performed pursuant to a federal government Agreement, this Article 47 incorporates one or more clauses by reference, with the same force and effect as if they were given in full text.

**48. PRIORITY OF DOCUMENTS.**

In the event of any conflict, inconsistency or ambiguity between or among the Agreement documents, the order of priority shall be: as follows, except as otherwise designated in advance and in writing by Owner: (1) Owner's Order; (2) Special Terms and Conditions (if any); (3) these General Terms and Conditions; (4) Specifications; and (5) any remaining documents referred to in the Agreement documents. The provisions of change orders and other changes, amendments, deletions, additions or other alterations to Agreement documents shall have the priority of the applicable Agreement documents to which they relate. In the absence of written direction from Owner to the contrary, the more/most stringent requirement of the Information included in the Specifications shall be deemed to apply in the event of any inconsistency, conflict, or ambiguity between or among two or more requirements therein.

**49. SEVERABILITY.**

In the event that any provision of the Agreement is deemed invalid or unenforceable, it shall be modified to the extent necessary to make it valid and enforceable. The remaining provisions of the Agreement shall remain fully enforceable notwithstanding the unenforceability of any individual provision.

**50. FINANCIALS.**

Upon written request by Owner, Consultant shall furnish the Owner, the Consultant's financial statements, including the accompanying notes thereto, for the immediately preceding quarter or fiscal year, as Owner requests, throughout the term of this Agreement. Such financial statements shall be prepared and certified internally by the chief financial officer of the Consultant and shall be reviewed annually by an independent certified public accountant hired by Consultant. All such non-

public financial information shall be considered Consultant's Confidential Information.

**51. PERFORMANCE ASSURANCE.**

51.1 Owner may require prior to the signing of the Agreement that Consultant provide performance assurance in favor of Owner with respect to all or any portion of the Work, in an amount and form and from an issuer satisfactory to Owner. Unless otherwise specified by Owner, such performance assurance shall remain in effect until the expiration of the warranty period for the applicable Work. In Owner's sole and exclusive discretion, Consultant shall increase the amount available to Owner on account of such then outstanding performance assurance within ten (10) days after written notice to Consultant. The Agreement compensation shall include Consultant's cost of procuring such performance assurance but shall not include any cost for Consultant's extension of such performance assurance due to failure of Consultant to complete Work in accordance with the applicable Work schedule.

51.2 Owner reserves the right to supplement these terms and conditions with provisions regarding liquidated damages as stated or referenced in the Order.

**52. NO GIFTS OR INDUCEMENTS.**

Consultant warrants and represents to Owner that neither it nor its Consultant Resources have either provided or offered to provide any gifts, payments, or other inducements to any officer, employee or agent of Owner for any purpose. Consultant shall not provide or offer any gifts, payments, or other inducements to any officer, employee or agent of Owner for any purpose and shall ensure that no employee or agent of Consultant offers any such gifts, payments or inducements. Consultant also represents and warrants to Owner that it and its Consultant Resources has neither provided nor offered to provide any gifts, payments, or other inducements to any government official, employee or agent in violation of any laws or regulations, including the Foreign Corrupt Practices Act.

**53. MOONLIGHTING RESTRICTION.**

Consultant shall neither employ, nor knowingly permit subcontractors to employ, Owner employees to perform the Work while the employees are employed by Owner.

**54. CONFLICTS OF INTEREST**

Contractor shall disclose to Owner any potential conflict of interest between the Contractor and Owner, and receive written permission from Owner prior to entering into any business transactions. Examples may include: 1) Contractor who has business or non-business relationships with Owner employees who can make decisions impacting Contractor's business; 2) Owner employees or their family members who have an ownership interest in Contractor's business; or (3) Contractor employees or their family members who serve as an officer, director, employee, agent or consultant of Owner or any Owner Affiliate. This policy also applies to any Subcontractor of Contractor who performs Work.

**55. RESERVED.**

**56. RESERVED.**

**57. INTERPRETATION AND CAPTIONS.**

The parties acknowledge that (a) they are of equal bargaining strength and have jointly participated in the preparation of the Agreement; and (b) any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of the Agreement, any portion thereof, or any amendments thereto. The captions for the Sections and Articles contained in the Agreement have been inserted for convenience only and form no part of the Agreement and shall not be deemed to affect the meaning or construction of any covenants, agreements, conditions or terms of the Agreement.

**58. SURVIVAL.**

All agreements, representations, warranties and covenants made by a Party to the Agreement and in the certificates or other documents delivered by a Party pursuant to the Agreement shall be considered to have been relied upon by the other Party and shall survive Final Acceptance of the Work hereunder. All requirements, terms, conditions and provisions that by their nature are incapable of being fully performed within the period of performance hereof shall survive cancellation, termination or expiration of the Agreement, including, without limitation, all of Consultant's non-disclosure obligations, warranties, and indemnities for the benefit of Owner.

**59. COMPLETE AGREEMENT.**

The Agreement shall constitute the complete agreement between the parties. All prior communications, whether oral or written, shall be superseded by the Agreement and shall not bind the parties. No change to the Agreement shall be binding upon the parties unless made in writing and signed by both parties.

## EVERSOURCE MUTUAL NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT

1. In connection with discussions between Eversource Energy Service Company (“**Eversource**”) and \_\_\_\_\_ (“**Company**”), with respect to potential transactions involving the purchase and/or sale of goods, services and/or other items (the “**Transactions**”), each party (as to information disclosed by it, the “**Disclosing Party**”) is prepared to furnish the other party (as to information received by it, the “**Receiving Party**”) with certain confidential and proprietary information. “**Confidential Information**” as used in this agreement (the “**Agreement**”) shall mean all such confidential information that is or has been disclosed by the Disclosing Party or its Affiliates (defined below), including information that is clearly marked “Confidential” or otherwise identified as confidential, including the subject matter and content of any discussions or communications between the parties (or any of its officers, directors, shareholders, employees, agents or affiliates), whether in writing or otherwise, and irrespective of the method or medium of transmission, which may relate to, concern or contain the Disclosing Party’s confidential information relating to, without limitation, operations, systems, assets, critical infrastructure information, policies and procedures, business objectives, products, product designs, technology, pricing, finances or financial performance; acquisition, operational or marketing strategies or projections. Confidential Information also includes, but is not limited to, personal data as defined in this Agreement or by applicable law, whichever is broader, and personal data shall not be required to be marked “Confidential” or “Proprietary” to be treated as Confidential Information under this Agreement. As used in this Agreement, “**personal data**” means any information relating: (x) to an identified; or (y) to a directly or indirectly identifiable, natural person. All other information shall be deemed to be non-confidential. As used in this Agreement, an “**Affiliate**” with respect to a party means any entity (including without limitation any individual, corporation, company, partnership, limited liability company or group) that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such party.

2. The Receiving Party agrees, except as required by law, to: (a) protect the confidentiality of the other party’s Confidential Information in whatever form maintained, including any notes, summaries, reports, analyses, or other material derived by the Receiving Party, its Affiliates, or its or their Authorized Parties (defined below), in whole or in part, from the Confidential Information (collectively, “**Notes**”); (b) use the Confidential Information and Notes only for the purposes of evaluating possible Transactions and the terms thereof; (c) use the same degree of care as with its own confidential information, which shall be at least a reasonable standard of care, to prevent disclosure of the Confidential Information and Notes, except to its Affiliates, and its or their officers, directors, employees, agents, advisors, representatives, service providers, consultants and/or subcontractors (collectively, “**Authorized Parties**”), solely to the extent necessary to permit them to assist the Receiving Party in evaluating Transactions; and (d) not disclose to persons (other than those described in clause (c) above) that the Confidential Information has been made available, that the Receiving Party is considering Transactions or that the parties have had or are having discussions or negotiations with respect thereto. The Receiving Party further agrees that prior to disclosing any Confidential Information to its Affiliates, or its or their Authorized Parties, as allowed hereunder, the Receiving Party shall advise such Affiliates and/or Authorized Parties of the confidential nature of the Confidential Information, and either: (x) direct them to abide by the terms of this Agreement; or (y) ensure they are under written agreement with the Receiving Party that establishes confidentiality and use restrictions regarding such Confidential Information that are no less restrictive than those set forth herein. The Receiving Party agrees to be responsible for any breach of this Agreement by it, its Affiliates, or its or their Authorized Parties. Each party acknowledges that money damages would not be a sufficient remedy for any breach of this Agreement. Accordingly, in the event of any such breach, in addition to any other remedies at law or in equity that a party may have, it shall be entitled to seek equitable relief, including injunctive

relief, specific performance, or both (although neither party shall be entitled to any special, consequential, indirect, punitive, or exemplary damages as a result of a breach of this Agreement, whether a claim is asserted in contract, tort, or otherwise). Nothing herein is intended to limit or abridge the protection of trade secrets under applicable trade secrets law, and trade secrets shall be maintained as such until they fall into the public domain. Company shall limit its disclosure to Eversource to Confidential Information directly related to the Transaction. All other information disclosed to the Receiving Party shall be considered non-confidential, unless the information disclosed contains any confidentiality markings.

3. This Agreement shall be inoperative as to particular portions of the Confidential Information disclosed by the Disclosing Party if such information: (a) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, its Affiliates, or its or their Authorized Parties; (b) was available on a non-confidential basis prior to its disclosure to the Receiving Party; (c) is or becomes available to the Receiving Party, its Affiliates, or its or their Authorized Parties on a non-confidential basis from a source other than the Disclosing Party when such source is not, to the best of the Receiving Party’s knowledge, subject to a confidentiality obligation with the Disclosing Party; or (d) was independently developed by the Receiving Party, its Affiliates, or its or their Authorized Parties, without reference to the Confidential Information, and the Receiving Party can verify the development of such information by written documentation.

4. If either party decides not to proceed with a Transaction, or upon any other termination of this Agreement, the Receiving Party will, upon request from the Disclosing Party, promptly: (a) return or destroy all Confidential Information disclosed to it; and (b) destroy, with such destruction to be certified by the Receiving Party, all Notes, without retaining any copy thereof. No such termination of the Agreement or return or destruction of the Confidential Information or Notes will affect the confidentiality obligations of the Receiving Party, its Affiliates, or its or their Authorized Parties, all of which will continue in effect as provided in this Agreement. Nothing in this Section 4 shall require either party or any of their respective Affiliates and/or Authorized Parties to return, destroy, or delete copies of any computer records and/or files containing the Confidential Information that have been created pursuant to automated processes such as document retention/archiving and/or back-up policies/procedures, provided that each and any such copies: (x) are kept confidential and cannot be accessed in the regular course of business; (y) are maintained and archived in compliance with reasonable information security standards; and (z) are properly deleted as required by the Receiving Party’s document retention/archiving and/or back-up policies/procedures.

5. Each party shall retain ownership of all Confidential Information and intellectual property it had prior to commencement of the discussions and evaluation referred to in this Agreement. Eversource shall own exclusively all rights in ideas, strategies, plans, and data, created in or resulting from Transaction related discussions between Company and Eversource, including all proprietary information and other intellectual property rights. Except as set forth in this Agreement, nothing in this Agreement shall be deemed to grant a license directly or by implication, estoppel, or otherwise, although the parties may provide for such a license in an express written agreement.

6. If either party or any of their respective Affiliates or Authorized Parties is requested or required, by interrogatories, subpoena, or similar legal process, to disclose any Confidential Information or Notes, such party agrees to provide the Disclosing Party with prompt written notice of each such request, to the extent practicable, so that the Disclosing Party may seek an appropriate protective order, waive compliance by the Receiving Party with the provisions of this Agreement, or both. If, absent the entry of a protective order or receipt of a waiver, the Receiving Party is, in the opinion of its counsel, legally compelled to disclose such

**EVERSOURCE MUTUAL NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT**

Confidential Information or Notes, the Receiving Party may disclose such Confidential Information or Notes to the persons and to the extent required without liability under this Agreement and will use its best efforts to obtain confidential treatment for any Confidential Information or Notes so disclosed.

7. This Agreement contains the entire understanding between the parties relating to the subject matter contained herein and supersedes all prior and collateral communication, reports, and understandings between the parties relating thereto. This Agreement is not intended as a teaming, joint venture, or other such arrangement. No change, modification, addition to, or waiver of, any provision of this Agreement shall be binding unless in writing and signed by authorized representatives of both parties. Except as provided herein, the parties agree that any disclosures contemplated hereunder, and any discussions or communications between the parties relating thereto, shall not restrict either party's right to take whatever future actions such party unilaterally determines to be in its best interests, including: (a) the right to discontinue discussions with the other party at any time; or (b) to undertake similar discussions or to enter into agreements or relationships with third parties covering subjects related to the matters covered herein. All provisions of this Agreement are severable, and if any provision or part thereof is deemed invalid or otherwise unenforceable, then such term shall be construed to reflect the closest lawful interpretation of the parties' original intent, and the remaining provisions of this Agreement shall remain valid, enforceable, and binding. This Agreement may be executed in multiple counterparts, each of which, when executed and delivered, shall be deemed an original, but all of which shall constitute one and the same instrument. Any signature page of any such counterpart, or any facsimile transmission thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any facsimile transmission of any signature of a party shall be deemed an original and shall bind such party. The Receiving Party shall notify the Disclosing Party in writing immediately upon discovery of any loss, unauthorized disclosure, or use of the Confidential Information and/or Notes, or any other breach of this Agreement by the Receiving Party, its Affiliates, or its or their Authorized Parties. In any such event, the Receiving Party shall help the Disclosing Party in every reasonable way to regain possession of the Confidential Information and/or Notes, and shall prevent any further unauthorized disclosure or use. This Agreement will be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign this Agreement or any of their rights and obligations hereunder, or delegate the performance thereof to a third party without the prior written consent of the other party. For the avoidance of doubt, the Disclosing Party's Affiliates disclosing Confidential Information under this Agreement shall be third party beneficiaries of this Agreement. Except as expressly provided in the foregoing sentence, nothing in this Agreement is intended to or shall confer to any third party any benefit or right to enforce any term of this Agreement. Any failure by a party hereto to enforce the other party's strict performance of any provision of this Agreement will not constitute a waiver of that party's right to subsequently enforce such provision or any other provision of this Agreement.

8. Company and Eversource each agree to take such measures as may be necessary to ensure that the disclosure of Confidential Information complies with any export control laws which may govern such disclosure. The Receiving Party shall indemnify and hold the Disclosing Party harmless from all claims, demands, damages, costs, fines, penalties, attorneys' fees, and all other expenses arising from its, its Affiliates, or its or their Authorized Parties failure to comply with this clause and/or applicable export control laws and regulations.

9. This Agreement shall be effective when duly signed by both parties and shall continue for a period of two (2) years from such date and thereafter will not be automatically renewed. This Agreement can be terminated by either party in writing upon thirty (30) days' written notice.

Any and all obligations of confidentiality shall nonetheless survive any such termination and/or expiration of this Agreement for a period of five (5) years unless otherwise agreed between the parties in writing provided however that for Confidential Information containing personal data or critical infrastructure information, Company's obligations of confidentiality shall nonetheless survive any such termination and/or expiration of this Agreement for so long as such information is under the control of Company.

10. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Connecticut, excluding its conflict of laws rules. If the parties have a controversy, dispute or difference arising out of this Agreement, either party may initiate litigation in the courts of Hartford County, Connecticut with subject matter jurisdiction. The parties submit to the jurisdiction of said courts and waive any defense of *forum non conveniens*. The parties waive all rights to jury trials.

This Agreement shall commence on the date last signed below.

**Eversource Energy Service Company**

Signature: \_\_\_\_\_  
Print or Type Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Company:** \_\_\_\_\_  
Signature: \_\_\_\_\_  
Print or Type Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_





<b>Name:</b>	IT System Acceptable Use Policy	<b>Version No.:</b>	1.0
<b>Doc No.:</b>	100-520-200-003	<b>Effective Date:</b>	08/01/2019
<b>Owner:</b>	Greg Rooney, VP, People and Culture	<b>Next Review Date:</b>	08/01/2022
<b>Approver:</b>	George Trisic, Chief Governance Officer & Corporate Secretary	<b>Last Approval Date:</b>	08/01/2019

This IT System Acceptable Use Policy (the “Policy”) forms a part of Algonquin Power & Utilities Corp.’s Enterprise Cybersecurity Policy (the “ECP”). The ECP applies to Algonquin Power & Utilities Corp. and its affiliates and subsidiaries (collectively, “APUC”, the “Company”, “we”, “us”, or “our”).

## 1. Purpose

The purpose of this Policy is to set forth the general rules, basic philosophy, and approach to the technology used at the Company for the purpose of carrying on its business. This Policy governs the use of the Company’s IT Assets by all users to ensure a safe and responsible environment. However, this Policy cannot cover all situations that may arise, particularly given the rapidly developing nature of technology and its applications.

## 2. Scope

This Policy applies to all Company IT Assets and all authorized users, in order to maintain the efficient functioning of the Company’s IT Assets, permit screening of files for viruses, investigate wrongdoing, determine whether security breaches have occurred, and monitor compliance with APUC’s policies.

## 3. Definitions

In addition to terms which are defined in the ECP, the following terms have the following meanings given to them for the purpose of this Policy:

### 3.1 Company IT Assets

The Company’s Information Technology (IT) Systems, assets, information services, and computing resources, whether software or hardware, owned or leased, located at the Company’s facilities or a service provider’s facilities. The Company’s IT Assets includes, without limitation, the Company’s network, computing resources, cellular phones and tablets.

### 3.2 Information Technology Systems

The collection of technologies that deal specifically with processing, storing, and communicating information, including all types of computer and communications systems as well as reprographics methodologies.

### **3.3 Hacking or Hack**

Generally refers to unauthorized intrusion into a computer or a network. The person engaged in hacking activities is known as a hacker. This hacker may alter system or security features to accomplish a goal that differs from the original purpose of the system. Hacking can also refer to non-malicious activities, usually involving unusual or improvised alterations to equipment or processes.

### **3.4 Social Media**

Social media refers to any and all social networks including (but not limited to): Facebook, Instagram, Snapchat, Pinterest, Twitter, LinkedIn, video/photo sharing websites, YouTube, blogs, forums, discussion boards, and online encyclopedias such as Wikipedia.

### **3.5 Social Networking**

Social networking refers to the process and practice that individuals and organizations take to interact with each other through common websites and specialized areas within those websites for the purpose of discussing, sharing, and gaining information.

### **3.6 Users**

Means all of the Company's employees, contractors, service providers and suppliers that have access to the Company's IT Assets.

## **4. Responsibilities**

### **4.1 Policy Ownership and Accountability**

This Policy is owned by the Human Resources Group of the Company, which is responsible for its content and accountable for its communication and distribution to all users.

### **4.2 Periodic Review**

This Policy will require a periodic review every three (3) years. The Company reserves the right to modify this Policy in its sole discretion at any time.

## **5. Policy Statement**

### **5.1 Acceptable Use**

Use of the Company's IT Assets must be in a manner consistent with the Company's stated business purposes, this Policy, and the conditions of each user's specific duties.

### **5.2 Company Property**

The Company's IT Assets are the Company's property and are the business tools used to facilitate the management of and transmittal of business-related communications and information. All documentation, communications and information created, sent, received, deleted, stored, or otherwise associated in any way with the Company's IT Assets ("Content") are business

messages. Content is the exclusive property of the Company, and is not the property of a user unless expressly agreed otherwise by the Company in writing.

### **5.3 No Expectation of Privacy**

Users should have no expectation of privacy or confidentiality for Content or information they create, send, receive, store, delete, or transmit via the Company's IT Assets. All Content, messages and information stored or transmitted using the Company's IT Assets are the property of the Company. This includes personal messages that may be routed to, and consequently stored on the Company's IT Assets, via company-issued personal computers or laptops and other devices.

Any Content that a user wishes to keep private should not be placed on the Company's IT Assets and, if on disk or other storage media, should not be brought into the workplace.

### **5.4 Improper Use**

Users are expressly prohibited from using the Company's IT Assets to:

- Threaten or harass others;
- Transmit obscene or abusive language;
- Create, display, download, transmit, or store offensive or derogatory images, sexually explicit material, messages or cartoons regarding sex, race, religion, color, national origin, marital status, age, physical or mental disability, medical condition, or sexual orientation;
- Violate the Company's policy prohibiting discrimination and harassment in employment;
- Gamble;
- Solicit or proselytize others for commercial ventures or for religious, charitable, or political causes. This includes "for sale" and "for rent" messages or any other personal notices, unless posted in Company-approved electronic areas such as a bulletin board, a public folder, or on the intranet, if available;
- Destroy or make unauthorized changes in the Company's records;
- Cause unwarranted network congestion (such as by transmitting large graphics files or streaming non-business content);
- "Hack" without authorization into the systems, files, or communications of others;
- Mislead others as to the source of electronic communications (such as by sending an email from another's workstation);
- Violate intellectual property rights;
- Violate any laws;
- Download or install Peer to Peer (P2P) software or other file sharing software on any Company IT Assets;
- Download or install games or external Instant Message (IM) applications such as Yahoo Messenger, AIM, etc., on Company IT Assets; or

- Disable or un-install any Company-provided security protection or anti-virus software.

## 5.5 Internet Access

The following information and rules apply to all users' use of the Internet:

- You should not send, forward, or retrieve messages, text, images, or other forms of information from the Internet that do not directly relate to your job responsibilities.
- You may not access, download, display, create, transmit, or store offensive or derogatory images, messages or cartoons regarding sex, race, religion, color, national origin, marital status, age, physical or mental disability, medical condition or sexual orientation or which in any way violate the Company's policy prohibiting employment discrimination and harassment in employment.
- You may not access, download, display, create, transmit, or store any sexually explicit or pornographic material on the Company's IT Assets.
- You may not download, install, use, or exchange with other users software obtained via the Internet or by other means such as email without the prior approval of the IT Department. This includes alternative or additional software for Internet access (such as unsupported Web browsers, media players, mail readers, utility programs, P2P software, etc.) and software not related to the Internet but obtained via the Internet. The best protection against viruses is to adhere to the Company's policy to not download or use software obtained via the Internet that has not been approved by the Company.

## 5.6 Social Media

Social Media provides an opportunity for the Company and its personnel to engage with its customers, among others. Social Networking provides a channel for marketing activities and an opportunity to listen to our customers' feedback as we grow the Company brand.

**Facebook, Twitter, Instagram, and LinkedIn Pages:** The Company has its own Facebook, LinkedIn, Instagram and Twitter pages which are only accessible by authorized personnel acting expressly on behalf of the Company who are permitted to publish information or respond to comments on the Company Facebook, Twitter, Instagram or LinkedIn pages.

**Acceptable Use:** The Company expects its personnel to communicate appropriately when participating in Social Media. As such, Company personnel should identify themselves by their true identity and exercise good judgment in the type of comments that they post to share when using Social Media as part of their authorized responsibilities.

**Non-Acceptable Use:** When using Social Media for a Company purpose, users are not permitted to:

- Access, transmit, or publish information of an inappropriate nature, including any material that could be considered discriminatory, offensive, pornographic, or demeaning.
- Make inappropriate, disparaging, libelous, or threatening comments.
- Release non-public information or proprietary information about the Company.
- Disclose confidential information, including, without limitation, information about staff, suppliers, or customers, using any Social Networking forum.

**Personal Use of Social Media:** The Company understands that its personnel will use Social Media in their personal capacity. The Company expects its personnel to communicate appropriately when participating in Social Media. As such, Company personnel should identify themselves by their true identity and exercise good judgment in the type of comments that they post to share when using Social Media in their personal capacity as well. It should be made clear that any comments made by Company personnel in their personal capacity on Social Media reflect the opinion of the person posting the comment and not the opinion of the Company.

### **5.7 Scams**

All users should be aware that many scams are conducted via the Internet and email with the intent to illegally obtain the Company's confidential information or personal information ("phishing"). It is the duty of each user to be prudent in the manner they access websites and respond to emails, and any email use should be in accordance with the Company's policies.

### **5.8 Denial of Access**

The Company reserves the right to deny access and to disconnect any user or person from the Company's IT Assets.

### **5.9 Deletion**

Deleting email messages and computer files on a device does not necessarily mean that there are not copies stored elsewhere on the Company's IT Assets or otherwise, or that the information cannot be retrieved. Accordingly, nothing should be written in a computer file or in email that you would not put in a traditional hard copy document. Please note that it is possible that the Company could choose to or be compelled to produce any Content in connection with legal or regulatory proceedings.

### **5.10 Software**

It is our policy that we acquire software through legitimate means and respect agreements concerning the use and copying of software. Users must not borrow, "bootleg", or copy Company-licensed software for personal use, nor utilize it outside the limits of the applicable license agreement executed by the Company.

**5.11 Security**

Security of the Company’s IT Assets and preservation of the confidentiality of information is critical and the responsibility of all users. Each user must lock or log off the PC they are using when away from the PC and at the end of each workday. Computer log-on IDs and passwords for network access, email, voice mail, and other applications should never be revealed to anyone without authorization.

**5.12 Exceptions**

Any request for an exception to this Policy must be submitted in writing to the Service Hub ticketing system for follow-up analysis and decision making. In the request, the user must include a justifiable business case that substantiates the exception request as well as a description of mitigating controls that are in place to reduce the risk associated with granting the exception.

**5.13 Approval**

This Policy has been approved in accordance with the Cybersecurity Working Group Policy review process.

**5.14 Policy Compliance and Consequences of Breach of Policy**

Any violation of the provisions of this Policy will result in disciplinary action up to and including termination of employment.

**6. References and Related Documents**

The following policies and associated policy statements apply to the Company and directly relate to the acceptable use of the Company’s IT Assets to ensure a safe and responsible environment.

Policy Name	Policy Statement
IT Access Control and Password Security Policy	4.12 All authorized users should be assigned a unique account ID and the password should not be shared. Use of any group or generic account IDs due to business or technical constraints shall be identified, inventoried, and assessed for potential risks. Further use is to be appropriately approved, and an exception to be raised which must then be approved by the System Owner, and the Vice President of Transition Management and IT 4.22 When an individual’s user access to information and systems is to be revoked, it shall be revoked according to the Company’s procedures 4.23 When an individual user changes/transfers to different departments/roles, the individual’s access to information and systems shall be reviewed by the Hiring and Departing Manager to determine if any access changes are required
	4.24 A periodic review of all accounts/access shall be conducted by System Owners in conjunction with IT to validate that all accounts (users and administrators), account groups, role categories and their specific, associated privileges are correct and are necessary for performing work functions; results of the review shall be documented and signed off by System Owners and Custodians to give authority for users’ continued access rights. The scope of this review is extended only to systems subject to the Company’s internal controls over financial reporting, but does include all related administrator accounts.
IT Email Security Policy	4.1 Email accounts will be granted to third-party non-employees on a case-by-case basis as approved by business management

Policy Name	Policy Statement
IT Instant Messaging Security Policy	4.1.1 For communication within APUC only, the authorized IM solution shall be used. Free IM solutions such as Yahoo or Google shall not be used.
	4.1.2 All messaging carried out over the internal IM system must adhere to the 'IT System Acceptable Use Policy'.
	4.1.3 The internal IM solution must not be used for sharing sensitive data including but not limited to: NERC restricted information, PII, or payment information.
	4.1.4 All information that traverses the Company Information Systems or is accessible by the Company is company property. As such, users shall have no expectation of privacy for any IM sent, stored, or received using the Company's Information Systems. While not obligated to monitor electronic correspondence, the Company reserve the right to monitor electronic correspondence at any time with or without prior notice. Use of the Company's Information Systems to send, receive, or store Instant Messages constitutes consent to monitoring.
	4.1.5 IM is a corporate privilege and is not to be viewed as an automatic right. Accordingly, IM may not be provided to some users based on job role, and privileges may be revoked at any time and for any reason with or without notice.
	4.2.1 Only authorized external IM communication systems may be used.
IT Malware Protection Policy	4.3 Anti-malware solutions shall be centrally managed and shall not be disabled by end users.
IT Mobile Device Security Policy	4.1 Authorized personnel are expected to use reasonable measures to protect and secure mobile devices containing company information, for example, by not leaving a device in an unattended vehicle, or if this is necessary, securing the device within the vehicle.
	4.2 All Company owned mobile devices shall be provisioned by IT prior to being used to perform business functions.
	4.3 The user shall report the loss or theft of such a device to the appropriate authorities, management, and IT as soon as reasonably possible.
	4.4.1 Users shall not alter provisioned authentication standards for all mobile devices as defined by the Company.
	4.5 Users shall not alter device security configurations or install software that may compromise the security of Company systems, data, or other Company policies.
IT Remote Access and VPN Security Policy	4.1.5 Users shall not set-up remote access using any tools such as TeamViewer or Log Me In for purposes other than temporary IT support.
	4.1.7 Users should only use Authorized Devices to connect to the Company's user VPN services.
IT Removable Media Policy	4.2 Employees, contractors, and vendors shall not modify or attempt to bypass security controls implemented to control removable media, such as but not limited to passwords and encryption.
	4.4 The end user shall immediately report to his/her Manager and the IT Department any loss, permanent or temporary, of removable media.
IT Secure Internet Access Policy	4.1.1 Individuals at APUC who use the Internet from Corporate IT resources shall comply with the 'IT System Acceptable Use Policy'.
	4.2.5 Access to the Internet shall always be directed through the Internet access security solution; users shall not be able to bypass or disable the Internet access security solution.
	4.2.7 Changes to allow access to a website which has by default been blocked by APUC's Internet access security solution shall be submitted via a Service Desk ticket and follow the established whitelisting process in order to grant access.
	4.2.8 All data that traverses the Company Information Systems is Company property. As such, users shall have no expectation of privacy for any Internet usage from Company systems. While not obligated to monitor electronic correspondence, the Company reserves the right to monitor Internet usage at any time with or without prior notice.

Policy Name	Policy Statement
	Use of the Company's Information Systems to access the Internet constitutes consent to monitoring.
IT Wireless Security Policy	<p>4.7.1 End users shall not connect wireless infrastructure devices (such as wireless access point or wireless routers) to the Company's network.</p> <p>4.7.2 Corporate Wireless: The System Acceptable Use Policy applies to the Company's wireless network.</p> <p>4.7.3 Guest Wireless:</p> <ul style="list-style-type: none"> <li>• Use of guest wireless network access should comply with the IT System Acceptable Use Policy.</li> <li>• Use of the guest wireless network is at the user's own risk – privacy and security are the user's responsibility.</li> <li>• APUC makes no guarantees for the availability of the guest wireless network.</li> <li>• APUC may filter traffic to reduce security risks. This includes, but is not limited to, redirecting guest wireless users to utilize the APUC web filtering solution, blocking ports, protocols and applications, and blocking IP addresses or ranges.</li> <li>• APUC may monitor activity on the guest wireless network in accordance with the IT System Acceptable Use Policy and applicable laws. By accessing the guest network, users consent to such monitoring. Users should have no expectation of privacy or confidentiality when using this network.</li> </ul>
IT Workstation Policy	<p>4.2 Only authorized workstations should be allowed to connect to the Company's network; authorization requests to follow regular service request process.</p> <p>4.4 Only approved applications should be installed on workstations.</p> <p>4.7 Workstation users shall not be permitted to use domain or local administrator account IDs unless required to perform their job functions, and as approved by the Company and IT Management.</p>
IT Cyber Security Awareness and Training Policy	<p>5.1 All users that have access to the Company's information Systems shall complete appropriate Cyber Security awareness and training. Cyber Security policies will be used to properly communicate the security expectations of the Company's Information Resources.</p> <p>All new users, at the time of onboarding or equivalent, shall acknowledge that they have read and understood the Company's Cyber Security policies. All current employees shall acknowledge, on an annual basis, that they have read and understood the Company's Cyber Security policies.</p> <p>5.2 A user's Cyber Security training activities (assigned training schedules and status) shall be tracked and monitored, and records shall be maintained, and in the case of users that are employees, within the Company's Learning Management System. Users with access to critical infrastructure resources or sensitive information will be required to have additional training as required by management.</p> <p>5.4 Any user that is non-compliant and in violation of the parameters of this policy or procedure will be considered a security incident and will require enforcement actions according to the severity and nature of the incident. Users may be considered non-compliant and under incident if they:</p> <ul style="list-style-type: none"> <li>• fail to complete required training</li> <li>• fail periodic assessments</li> <li>• continually fail to implement the knowledge obtained from awareness and training</li> </ul>



**Version History**

Version No.	Revision Date	Revised By	Description of Revisions
1.0	July 15, 2019	Greg Rooney, VP People and Culture	Draft & Final edits to meet new Policy Template

## CONSULTING SERVICES AGREEMENT

This Agreement (“Agreement”), effective **Date**, by and between **LIBERTY.**, a **State of Incorporation** corporation, (“Company”) having its principal offices at **Full address**, and **Consultant**, a **State of Incorporation** corporation, (“Consultant”) having offices at **Full Address**. Company and Consultant may be referred to individually as a “Party” or collectively as “Parties” below.

**NOW THEREFORE**, in consideration of the mutual terms, conditions and covenants hereinafter set forth, the parties hereto agree as follows:

1. **Scope of Services.** Consultant agrees to perform the services for Company set out in **Exhibit A** attached hereto (the “**Services**”) in accordance with the terms and conditions set forth in this Agreement.
2. **Standard of Performance.** Consultant warrants that the Services (i) shall be performed in accordance with recognized professional consulting standards for similar services and that competent and qualified personnel will be assigned for that purpose; and (ii) shall comply with all applicable laws, rules, regulations and codes. Consultant further represents and warrants that it is competent and qualified by education, training and/or experience to perform the Services in accordance with the foregoing warranties. If, during the performance of the Services or within one year following completion of the Services, any such Services or Work Product (defined below) shall prove to be faulty or defective by reason of a failure to meet such standards or conform to such warranties, Consultant agrees that upon prompt written notification from Company prior to the expiration of the one year period following the completion of the Services, such faulty portion of the Services shall be reformed at no cost to Company.
3. **Term.** Unless sooner terminated in accordance with Section 4 hereof, this Agreement shall be effective as of the date written above (the “**Effective Date**”) and shall continue in full force and effect until the Services are completed according to the standards and specifications set forth herein, but in no event shall the term exceed \_\_\_\_\_ (the “**Term**”).
4. **Termination.**
  - a. **Termination by Either Party.** Either Consultant or Company (the “**Terminating Party**”) may terminate this Agreement by written notice to the other Party with immediate effect and without limiting any other rights or remedies it may have (i) if the other Party fails to make any payment (other than a disputed payment that has not been resolved) required to be made hereunder when such payment is due and owing, and such failure continues for thirty (30) days after written notice thereof has been given to the non-paying Party; or (ii) if the other Party has filed against it petitions under any insolvency or bankruptcy law of any jurisdiction which are not dismissed within sixty (60) days of the date filed, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy under any provision of applicable law or consents to the filing of any bankruptcy or reorganization petition against it under any similar applicable law, or if receivers, trustees, custodians or similar agents are appointed or take possession with respect to any property or business of such Party.

- b. **Termination by Company for Convenience.** Company may, in its sole discretion, terminate this Agreement and/or any portion of the Services, in whole or in part, at any time and for any or no reason, by providing at least ten (10) days prior written notice to Consultant.
- c. **Effect of Termination.** In the event of termination, Consultant shall be entitled to all undisputed amounts due and owing hereunder for Services performed in accordance with this Agreement up to the effective date of termination. Consultant shall return any Company property, including Work Product, in Consultant's possession to Company on the date of termination of this Agreement for any reason.

5. **Fees and Expenses.** The fees and rates which Consultant shall be entitled for its performance of the Services shall be the amounts set forth in **Exhibit B**. Report production and printing, reproduction, and telephone charges will be billed to Company at Consultant's standard charges set out in **Exhibit B** for such materials for Services. Expenses of consultants while on assignment or any other charge incurred or expenditure made on Company's behalf shall be reasonable and documented and will be charged at Consultant's cost.

6. **Payment.** Consultant will submit monthly invoices reflecting actual work performed and expenses incurred. Payment shall be due in U.S. funds thirty (30) days after Company's receipt of the invoice. Interest will accrue on undisputed invoiced amounts overdue by more than thirty (30) days at a per annum rate equal to the "prime rate" as reported in the *Wall Street Journal*, prorated on the basis of a 365-day year (or such lower rate as is the maximum rate permitted by applicable law) from the date that such amount was due, taking into account any grace period hereunder, until the time that such amount is paid.

7. **Sales Tax.** Consultant shall, where applicable, separately list on its invoices all sales taxes applicable to the Services provided hereunder. If Company is exempt from the payment of taxes, Company will provide Consultant with a tax exemption certificate. Consultant shall be solely responsible for the remittance of all sales taxes.

8. **Independent Consultant.** This Agreement does not in any way create an employer/employee relationship between Company and Consultant. Consultant shall act at its own risk and expense in its fulfillment of the terms and obligations of this Agreement and agrees to employ and direct any persons performing any Services hereunder. Neither Party shall have the authority to enter into any agreement on behalf of the other Party.

9. **Confidentiality.**

- a. Each Party shall and shall cause its affiliates, representatives, consultants, agents and subConsultants, and its and their respective shareholders, members, owners, officers, directors, managers, principals, agents, advisors and employees (collectively, "**Representatives**") to maintain in strict confidence, and to prevent the unauthorized use, disclosure, publication or dissemination of, the Confidential Information (defined below) furnished to such Party (the "**Receiving Party**") or its Representatives by the other Party (the "**Disclosing Party**") or its Representatives on or after the Effective Date. Notwithstanding the foregoing, Confidential Information may be disclosed by the Receiving Party: (i) to its Representatives who need to know such Confidential Information for the purposes of performing the Services and who will be advised by the Receiving Party of the confidentiality obligations under this Agreement and provided that the Receiving Party shall (y) be reasonably satisfied that such Representatives will act in accordance with this Section 9 and (z) be responsible for any breach of this Section 9 by such Representatives; (ii) to the extent

required by any governmental authority or by applicable law, regulation, or stock exchange rules; provided that, if and to the extent permitted by applicable law, such Party shall promptly notify the Disclosing Party and shall cooperate with the Disclosing Party in its efforts to obtain confidential treatment of such Confidential Information; and (iii) as otherwise expressly contemplated by this Agreement.

- b. The Parties and their Representatives shall use the Confidential Information that each obtains from the other pursuant to this Agreement solely for the performance of the Services or for other purposes consistent with the intent of this Agreement. This Section 9 shall survive the later of the termination or expiration of this Agreement for a period of three (3) years.
- c. “Confidential Information” means all confidential or proprietary information which under all circumstances should reasonably be considered confidential, including data, financial information, reports, analyses, compilations, studies, projections, forecasts, records, deliverables, customer data, Work Product and other materials (including such information and data which are electronically transmitted or stored) containing or otherwise reflecting information and concerning this Agreement, the Services, the Parties, and each of their affiliates and subsidiaries, whether disclosed orally, in writing or obtained through site visits, and whether or not marked or identified as “confidential” or such other similar identification. Confidential Information shall also include any confidential or proprietary materials or information of third parties provided by the Disclosing Party or its Representatives to Receiving Party or its Representatives in connection with this Agreement or the Services. Notwithstanding the foregoing, Confidential Information shall not include (i) information that was already known to the Receiving Party or its Representatives prior to disclosure by the Disclosing Party; (ii) information that is obtained or was previously obtained by the Receiving Party or its Representatives from a third party who, insofar as is known to the Receiving Party or its Representatives after reasonable inquiry, is not prohibited from transmitting the information to the Receiving Party or its Representatives by a contractual, legal, or fiduciary obligation to the Disclosing Party; (iii) information that is or becomes generally available to the public other than as a result of a disclosure by the Receiving Party or its Representatives in breach of this Agreement; or (iv) information that is independently developed by or for the Receiving Party or its Representatives without use of Disclosing Party’s Confidential Information.
- d. The Parties acknowledge that any breach of this section may cause irreparable harm to the other Party for which monetary damages alone may not be sufficient, and, accordingly, the aggrieved party shall have the right to seek injunctive or other equitable relief in addition to any other remedies available to it at law or otherwise, including without limitation reasonable attorneys’ fees.

10. **Ownership of Work Product.** All data, drawings, reports, documents and other deliverables developed, prepared or provided in connection with the Services (“**Work Product**”) shall be the property of Company and Consultant shall have no rights therein. Title to the Work Product shall automatically pass to Company upon payment by Company therefor without the necessity of an instrument or other document evidencing such title (unless such instrument or other document is required by law or other applicable requirement, in which case Consultant shall promptly deliver such instrument or other document to Company). All Work Product shall be deemed works made for hire. In the event any such materials may not, by operation of law, be works made for hire, Consultant hereby assigns to Company all rights in such materials and copyrights therein. Consultant expressly waives any and all

moral rights or claims in association with the Work Product and shall cause its Representatives to similarly waive all such moral rights in favor of Company. Notwithstanding the foregoing, Company understands and agrees that Consultant's use of its proprietary computer software, methodology, procedures, or other proprietary information in connection with the Services shall not give Company any rights with respect to such proprietary computer software, methodology, procedures or other proprietary information. Consultant may retain and further use the technical content of its work hereunder.

11. **Force Majeure.** No Party shall be liable to the other Party for any delay or failure in the performance of any of its obligations hereunder if and to the extent such delay or failure is a result of Force Majeure. The term "Force Majeure" means any act or event that (i) delays the affected Party's performance of its obligations in accordance with the terms of the Project Agreement or Purchase Order, (ii) is beyond the reasonable control of the affected Party and is not due to its fault or negligence, (iii) is not reasonably foreseeable, and (iv) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including (to the extent consistent with the foregoing) any act of God, pandemics, any act or omission of any government authority, explosions, fire, riot, and war. Force Majeure shall not include: (a) economic hardship; (b) any labor strike, labor dispute, work stoppage, boycotts, walkouts and other labor difficulties or shortages resulting therefrom, except for nationwide strikes meeting all of the requirements specified in the definition of Force Majeure; (c) the inability to obtain labor, equipment or other materials or supplies for the Work; (d) changes in market conditions; (e) failure to timely apply for permits or approvals; (f) any act or event to the extent resulting from the fault or negligence of any person claiming Force Majeure; or (g) the financial inability of any person to perform its obligations under the Project Agreement or Purchase Order. For the purpose of claiming Force Majeure due to abnormal weather, abnormal weather shall be defined as storm events that occur at the Project Site that are as or more severe than the 100-year 24-hour storm using National Oceanic Atmospheric Administration weather data from the nearest reporting station to the Site and the most recently published NOAA ATLAS 14 point precipitation frequency estimates, or greater than 2-inches of accumulated ice as recorded at site, or greater than 12 inches of snow fall as recorded at site. The protections afforded under this section shall be of no greater scope and no longer duration than is required by the Force Majeure. Notwithstanding this section, no Force Majeure shall relieve, suspend or otherwise excuse any Party from performing any obligation to make any payment owed to another Party or to indemnify, defend, or hold harmless another Party. Upon the occurrence of a Force Majeure (or as soon as reasonably practicable thereafter), the Party declaring the Force Majeure shall act to resume normal performance of the affected Project Agreement or Purchase Order and Work within the shortest time practicable, taking into account the consequences resulting from such event of Force Majeure.

12. **Insurance.** Throughout the Term, Consultant shall maintain, at its sole expense, at a minimum; (i) Commercial General Liability Insurance coverage, with minimum limits of \$1,000,000 per occurrence and minimum general aggregate limit of \$1,000,000; (ii) Professional Liability Insurance covering the liability for financial loss due to error, omission or negligence of Consultant with a minimum amount of \$2,000,000 per occurrence; (iii) Worker's Compensation Insurance - statutory limits for the state or states in which the Services are to be performed, including Employer's Liability with minimum limits of \$500,000 with minimum limits of \$2,000,000 each accident and \$2,000,000 per disease/employee; and (iv) Comprehensive Automotive Liability Insurance covering use of all owned, non-owned and hired automobiles with a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage liability; (v) Umbrella Liability Insurance with a minimum combined single limited of \$4,000,000. If for any reason Consultant's insurer cancels or fails to renew such policy, Consultant shall immediately purchase a

replacement policy containing substantially the same terms as such policy. All insurance policies Consultant is required to carry pursuant to this Section shall: (i) be primary as to Consultant's negligence or intentional acts or omissions; (ii) name Company as additional insured (except for Worker's Compensation and Professional Liability insurance); (iii) include a waiver of subrogation, and (iv) be provided by reputable and financially responsible insurance carriers. Consultant shall cause its insurers to issue policies to Company on or before the Effective Date and periodically provide renewal certificates.

**13. Indemnity.** To the fullest extent permitted by law, Consultant and its successors, assigns and guarantors, shall defend, indemnify and hold harmless Company and Company's agents, representatives, officers, directors, parents, subsidiaries, affiliates, consultants, insurers and/or sureties, from and against any and all liabilities, claims, direct damages, direct losses, costs, expenses (including but not limited to, attorney's fees, court costs and appellate proceedings), injuries, causes of action, or judgments occasioned by, contributed to and/or in any way caused, in whole or in part, by Consultant, its respective agents or employees, or any subConsultant, engineer, consultant or sub-Consultants of Consultant or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Consultant's and subConsultant employees, in the performance of the Work covered by this Agreement by whoever performed, including but not limited to any active or passive negligence of Company, and/or any act or omission of Company, unless such negligence, act and/or omission of Company was the sole cause of such liability and/or claim. Consultant shall defend Company at Consultant's expense with legal counsel reasonably acceptable to Company. This Indemnity Clause shall apply to any claim arising out of, related to or in any way incident to the performance of the Work of Consultant that is sustained or asserted before or after completion of the Work or termination of this Agreement. This Indemnity Clause extends to and includes all claims, just or unjust, based on a tort, strict liability, contract, lien, statute, stop notice, rule, safety regulation, ordinance or other affiliated relief or liability, and whether the injury complained of arises from any death, personal injury, sickness, disease, property damage (including loss of use), economic loss, patent infringement, copyright infringement, or otherwise, even if such claim may have been caused in part by Consultant as set forth above. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Consultant and/or Project Manager or any subConsultant, supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts. Notwithstanding the language above this indemnity clause shall apply solely to the extent that such liability claim, damage, loss, or expense is caused by Contractor.

**14. Damages Limitation. NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR LOSS OF PROFIT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES, EXCEPT TO THE EXTENT SUCH DAMAGES RESULT FROM (A) A PARTY'S INDEMNIFICATION OBLIGATION UNDER THIS AGREEMENT; (B) DAMAGES ARISING FROM WILLFUL MISCONDUCT OF CONSULTANT; (C) NEGLIGENCE OF THE CONSULTANT.**

**15. Remedies.** The rights and remedies of the parties herein are not exclusive and are in addition to other rights or remedies provided at law or equity.

16. **Compliance with Laws and Company Policies.** Consultant shall comply in all respects with all applicable federal, state and local laws, ordinances, regulations and rules, including any policies and procedures of Company as Company may advise Consultant.

Each Party warrants that it is an Equal Employment Opportunity employer and that if this Agreement is placed as a contract or subcontract under a United States Government prime contract, those clauses required by federal law to be included are herein incorporated by reference. During the performance of this Agreement, Consultant agrees to comply with all federal, state and local laws respecting discrimination in employment and non-segregation of facilities including, but not limited to, requirements set out at 41 C.F.R. §§ 60-1.4, 60-250.5 and 60-741.5, which equal opportunity clauses are hereby incorporated by reference. Notification is hereby given that compliance with these clauses may require Consultant to annually file certain reports (e.g. EEO-1 Report and VETS-100 Report) with the federal government and may require Consultant to develop written Affirmative Action Programs for women and minorities, covered veterans and/or persons with disabilities.

Consultant acknowledges that it is aware of, and agrees to comply with Company's policies and procedures, including, but not limited to its policies regarding (i) harassment, (ii) workplace violence, (iii) use of alcohol and drugs, and (iv) computer and telecommunications procurement and use.

17. **Governing Law and Venue.** All questions concerning the validity, interpretation and performance of this Agreement shall be construed and governed by and decided in accordance with the laws of the state of State of [ ] without reference to its conflict of laws. Consultant and Company hereby irrevocably submit to the jurisdiction of the courts in the state of [ ] and agree that no party shall seek removal or bring any such action or proceeding in any other court or jurisdiction.

18. **Assignment.** Consultant shall not assign or transfer this Agreement or its rights and obligations hereunder or subcontract the Services or any part thereof without Company's prior written consent. Company may assign or transfer this Agreement and its rights and obligations hereunder at any time without the consent of Consultant. This Agreement shall enure to the benefit of, and shall be binding upon, the Parties and their permitted successors and assigns.

19. **General.** If any provision of this Agreement shall be held to be invalid or unenforceable, the remaining terms and provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law. All exhibits and attachments to this Agreement are incorporated herein by reference. In the event of any conflict between the terms of this Agreement and any exhibit or attachment hereto including any description of Services, the terms of this Agreement shall govern. No modification, change or amendment to this Agreement or the Services shall be effective unless and until such modification, change or amendment is agreed to by the parties in writing. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original instrument and together shall constitute but one and the same agreement.

20. **Notices.** Any notice required or permitted by this Agreement shall be in writing and sent by reputable courier, with a copy to any email addresses provided below. The addresses for service are:

To Company:

Liberty Entity

EMAIL: [LegalNotices@libertyutilities.com](mailto:LegalNotices@libertyutilities.com)

To Consultant:

21. **Purpose and Deliverables.** Consultant understands and agrees that the Services shall be provided at the direction of Company's legal department for the sole purpose of such department rendering legal advice to Company's regulatory department. All Work Product and communications in connection with therewith shall be addressed and delivered directly to the Company representative identified in Section 19 above and shall be marked "Privileged and Confidential". The Parties intend that all Work Product and communications in connection therewith are of a confidential and privileged nature and neither Party intends to waive any such privileges or protections.

22. **Survival.** Notwithstanding anything in this Agreement to the contrary Sections 9, 10, 13, 14, and 18 shall survive termination of this Agreement.

*[Signature Page Follows]*



**IN WITNESS WHEREOF**, the Parties have entered into this Agreement as of the date written above.

**COMPANY**

**CONSULTANT**

**(Liberty Entity)**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Name:

Title:

Title:

**EXHIBIT A**  
**DESCRIPTION OF SERVICES**

**EXHIBIT B**

FEES AND EXPENSES

## NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement, dated as of \_\_\_\_\_, 2022 (“Agreement”), between Liberty Utilities (EnergyNorth Natural Gas) Corp. and Liberty Utilities (Granite State Electric) Corp., both d/b/a Liberty (“Liberty”) and \_\_\_\_\_ (“Counterparty”), each individually a “Party” or collectively the “Parties,” sets forth the terms and conditions under which the Parties will disclose certain confidential and proprietary information to each other.

Whereas, Counterparty intends to respond to a request for proposals regarding a statewide data platform (the “Project”); and

Whereas, Counterparty may need access to confidential Liberty information in the process of responding to the RFP;

Now, therefore Liberty and Counterparty agree as follows:

### 1. DEFINITION OF CONFIDENTIAL INFORMATION

1.1 Information to be treated as “Confidential Information” under this Agreement is all information (tangible, intangible, printed, electronic, oral, or otherwise) concerning the business, operations, plans, and assets of the party disclosing Confidential Information (the “Disclosing Party”), that is provided to the party receiving Confidential Information (the “Receiving Party”) in the context of the Project. Confidential Information is deemed to be non-public and proprietary. Confidential Information includes all copies of the Confidential Information and all notes, analyses, compilations, forecasts, studies, and other documents or reports containing Confidential Information prepared by Receiving Party or by its employees, directors, partners, officers, affiliates, consultants, attorneys, agents, owners, or co-owners (each a “Representative”).

1.2 Notwithstanding the foregoing, Confidential Information does not include:

- (i) information rightfully known to or already in the possession of the Receiving Party prior to its disclosure by the Disclosing party;
- (ii) information that is or becomes publicly available without breach of this Agreement by the Receiving Party or its Representatives;
- (iii) information disclosed to Receiving Party by a third party without violating any obligations of confidence; or
- (iv) information independently derived by Receiving Party or its Representatives without the aid, application, or use of Confidential Information.

## **2. PURPOSE, USE AND DISCLOSURE OBLIGATIONS**

- 2.1 The use by Receiving Party of all Confidential Information disclosed under this Agreement shall be limited solely to the Project.
- 2.2 Receiving Party agrees that disclosure of the Confidential Information shall be limited to its Representatives that are required, in Receiving Party's sole judgment, reasonably exercised, to receive disclosure of the Confidential Information to accomplish the purpose set forth in Section 2.1. Receiving Party agrees that prior to the disclosure of the Confidential Information to any of its Representatives, it will inform its Representatives of the confidential and proprietary nature of the Confidential Information and it will obligate each of its Representatives to comply with the terms of this Agreement. Receiving Party further agrees to be fully responsible and liable for breach of this Agreement by any of its Representatives.
- 2.3 The Parties agree not to disclose, and shall direct its Representatives not to disclose, the fact that any work, investigations, discussions, or analyses are taking place concerning the Project.
- 2.4 Receiving Party agrees that any Confidential Information received from Disclosing Party shall be maintained by the use of appropriate internal procedures to ensure that Confidential Information maintains its confidential and proprietary nature.
- 2.5 Receiving Party shall return to Disclosing Party, or destroy, all documents, computer diskettes, and remove from all computer drives, and any other tangible items in its possession which contain any part of the Confidential Information received from Disclosing Party under this Agreement within ten days of the written demand of Disclosing Party. On the request of Disclosing Party, any such destruction shall be certified by Receiving Party (to the best knowledge of the signatory) in writing to Disclosing Party. In the event that Receiving Party discovers Confidential Information that was neither returned nor destroyed, Receiving Party agrees to promptly either return or destroy the subsequently discovered Confidential Information, and promptly notify Disclosing Party as to the discovery of the Confidential Information.
- 2.6 In the event Receiving Party becomes legally compelled (whether by court, regulatory order, or otherwise) to disclose any Confidential Information received from Disclosing Party, Receiving Party will provide Disclosing Party prompt written notice so that Disclosing Party may seek a protective order or other appropriate remedy prior to any disclosure. Receiving Party shall cooperate with Disclosing Party in seeking the protective order or other appropriate remedy so that Confidential Information maintains its confidential and proprietary treatment. In the event that a protective order or other protective remedy is not obtained, Receiving Party will furnish only that portion of the Confidential Information which is legally required, in the opinion of its own counsel, and that party will exercise reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information.

### 3. GENERAL

- 3.1 **THIS AGREEMENT IS GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW HAMPSHIRE, REGARDLESS OF CONFLICTS OF LAWS PRINCIPLES THAT MIGHT APPLY THE LAWS OF ANOTHER JURISDICTION. EACH PARTY CONSENTS TO THE JURISDICTION AND VENUE OF THE COMPETENT STATE AND FEDERAL COURTS LOCATED IN NEW HAMPSHIRE FOR ANY ACTION BROUGHT UNDER THIS AGREEMENT. THE PRECEDING SHALL NOT APPLY TO A PARTY SEEKING TO ENFORCE A JUDGMENT IN ANOTHER COURT, VENUE, OR JURISDICTION.**
- 3.2 **EACH PARTY IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY.**
- 3.3 Receiving Party acknowledges and agrees that any Confidential Information disclosed to the Receiving Party is considered by the Disclosing Party to be of a special, unique, and proprietary character, and that any breach or threatened breach of any provision of this Agreement may cause Disclosing Party irreparable harm for which monetary damages may be inadequate. Receiving Party agrees on behalf of itself and its Representatives, therefore, that Disclosing Party is entitled to seek specific performance and injunctive or other equitable relief, alone or in combination, as a remedy for any breach without the necessity of posting or securing a bond, to prevent or restrain any breach or any threatened or continued breach of this Agreement, and to secure the enforcement of this Agreement. Any injunctive relief is in addition to and without limitation of all other remedies available to Disclosing Party under this Agreement.
- 3.4 This Agreement constitutes the entire understanding between the Parties with respect to the Confidential Information subject to this Agreement.
- 3.5 This Agreement supersedes all previous communications, representations, and understandings between the Parties with respect to the protection of the Confidential Information subject to this Agreement, contains the complete and final agreement between the Parties, and may be modified only by a written instrument signed by both parties.
- 3.6 No license under any invention, patent, copyright, trade secret, or other proprietary right is granted, either directly or indirectly, by this Agreement nor by any disclosure of Confidential Information. Neither party represents or warrants that Confidential Information disclosed under this Agreement will not infringe any third party's patents, copyrights, trade secrets, or other proprietary rights.
- 3.7 No agency, partnership, joint venture, or other joint relationship is created by this Agreement. There are no third parties that are intended to benefit from this Agreement.

- 3.8 Each Party understands that neither the other Party nor any of its Representatives have made or make any representation or warranty as to the accuracy or completeness of the Confidential Information. Neither Party nor its Representatives shall have any liability to the other Party or its Representatives resulting from the use of the Confidential Information. This Agreement does not constitute or create any obligation for either Party to provide any information, Confidential or otherwise, to the other Party, but merely defines the rights, duties, and obligations of the Parties with respect to disclosed Confidential Information.
- 3.9 This Agreement shall be binding on the Parties and on their respective successors and assigns.
- 3.10 If any provision of this Agreement is declared void or otherwise unenforceable, that provision shall be deemed to have been severed from this Agreement, which shall otherwise remain in full force and effect.
- 3.11 No failure or delay by a party in exercising any right, power, or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise or the exercise of any other right, power, or privilege under this Agreement.
- 3.12 All notices, requests, claims, demands, and other communications under this Agreement shall be in writing and shall be deemed given (i) on receipt if by personal delivery, electronic mail, or a recognized overnight courier service, or (ii) three days after deposit with the U.S. Postal Service (first-class mail postage prepaid, return receipt requested), to the Parties at the following addresses (or at such other address for a party as shall be specified by like notice):
- (a) if to Counterparty: \_\_\_\_\_.
- (b) if to Liberty: Liberty Utilities, 114 North Main Street, Concord, NH 03301, [michael.sheehan@libertyutilities.com](mailto:michael.sheehan@libertyutilities.com) Attention: Legal
- 3.13 **NO PARTY IS ENTITLED TO RECOVER PUNITIVE, INDIRECT, CONSEQUENTIAL, LOST PROFIT, LOSS OF REVENUE OR OPPORTUNITY, SPECIAL, OR EXEMPLARY DAMAGES UNDER THIS AGREEMENT.**

3.14 This Agreement is effective when signed and shall remain in effect for a term of one year, or until terminated by mutual written agreement.

3.15 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute the same agreement.

IN WITNESS WHEREOF, the Parties have signed this Agreement effective the date first written above.

Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty

By: \_\_\_\_\_  
Name:  
Title:  
Date:

Liberty Utilities (Granite State Electric) Corp., d/b/a Liberty

By:  
Name:  
Title:  
Date:

Counterparty

By:  
Name:  
Title:  
Date:



**Unitil Energy Systems, Inc.**  
**Consulting Services Agreement**

THIS AGREEMENT for the provision of Consulting Services (“Agreement” or “Consulting Services Agreement”), made and entered into on \_\_\_\_\_ by and between \_\_\_\_\_ (“Company” or “the Company”), a New Hampshire corporation with its principal place of business at 6 Liberty Lane West, Hampton, NH and \_\_\_\_\_ (“Consultant”), having its principal place of business at \_\_\_\_\_.

1. Services and Deliverables

Consultant will provide to the Company the services and deliverables (the “Services”) as described in Unitil’s [Insert RFP Name and No.] and any attachments thereto, and [Insert Consultant Name and Proposal dated Month/Day/Year], both of which are incorporated into this agreement by reference, as may be modified from time to time by mutual consent, evidenced in writing and signed by both parties.

2. Independent Contractor

Consultant is an independent contractor and not an employee or agent of Unitil Corporation or any subsidiary thereof. Consultant assumes full and sole responsibility for the payment of all compensation and expenses of its employees and for all of their state and federal income tax, unemployment insurance, Social Security, payroll and other applicable employee withholdings.

3. Subcontractors

The Company reserves the right to refuse to permit any person or organization (subcontractor) to participate in the work covered by this Contract, such refusal shall not be unreasonably imposed. No subcontract, if approved by the Company, shall relieve the Consultant of any liabilities or obligations under the Agreement, and the Consultant agrees that Consultant is fully responsible to the Company for the acts and omissions of Consultant’s subcontractors and of persons employed by them. Consultant shall require every subcontractor to comply

with the provisions of the Agreement, including the Mutual Confidential Non-Disclosure Agreement.

4. Supervision

Consultant shall perform the Services with reasonable care in a diligent and competent manner. Consultant shall maintain control over its employees and all of its subcontractors.

5. Liability and Indemnification

The Consultant agrees to indemnify, hold harmless and defend the Company, its parent, subsidiaries and affiliates and their respective employees, agents, officers, and directors, from and against any and all liability for loss, damages, fines, penalties, claims, actions, proceedings, expense, or cost, including but not limited to attorney's fees and litigation expenses which may be asserted against the Company or which the Company may incur or be held liable by reason of:

- bodily injury, including death, sustained by or alleged to have been sustained by any person or persons, including but not limited to employees of the Company, employees of the Consultant, employees of any subcontractor or any other third parties, and without regard to whether the person or persons are working within the scope of their employment;
- damage to property;
- personal injury, including but not limited to, false arrest, false imprisonment, or violation of privacy rights;
- any unlawful employment practice of the Consultant or any subcontractor, including without limitation, employment discrimination, wrongful discharge, termination of employment or violation of state or federal statutes or regulations relating to employment practices; or
- resulting from the acts and/or omissions of Consultant or subcontractor, its employees, agents, subcontractors or those under its or their control, and/or arising out of or in any manner connected with the performance of this Agreement or the operations to be performed under this Agreement to the extent such injury or damage

is caused by or is attributable in whole or in part to any act or omission of the Consultant, its affiliates or its or their employees or agents or those under its or their control; provided, however, that the Consultant shall not be held responsible for damage to private property when such damage results from the Consultant's having carried out in a proper workmanlike manner instructions received from a duly authorized representative of the Company as to the use to be made of, or act to be performed on, such private property.

6. Payment

Payment for the Services shall be at the billing rate or rates as set forth on [Attachment 1 to the \_\_\_\_\_ Proposal submitted \_\_\_\_\_ and which is incorporated into this agreement by reference. Pursuant to Attachment 1 to the \_\_\_\_\_ Proposal, costs for the Services are not to exceed \_\_\_\_\_. Consistent with the requirements of the [Insert appropriate regulatory dept.], the Company requires detailed hourly billing that will withstand the scrutiny of the Commission for cost recovery. This means that bills should be detailed enough to justify cost recovery to the Commission while not divulging litigation work product, and shall at a minimum include the number of hours worked, the billing rate, and the specific nature of services performed. All other out-of- pocket expenses, including cost of travel or travel-related expenses, telephone, duplication, and delivery costs (“Other Direct Costs”) should be tracked and identified separately on bills. The Company will remit payment on all appropriate invoices within thirty (30) days of receipt.

7. Confidentiality

Consultant acknowledges and agrees that due to the unique nature of this Agreement, Consultant shall be required to enter into a separate Mutual Confidential Non-Disclosure Agreement with Company in the form attached hereto as Attachment 1.

8. Non-Solicitation

During the term of this engagement, and for a period of one year following its expiration or termination, Consultant will not directly or indirectly solicit, employ or otherwise engage any Company employees (including former employees) or contractors who were involved in the engagement.

9. Complete Agreement

This Agreement constitutes the complete agreement between the Parties on the subject matter identified herein, and supersedes all prior oral and written communications between the Parties, and may be amended, modified or changed only in writing when signed by both parties. No term of this Agreement will be deemed waived, and no breach of this agreement excused, unless the waiver or consent is in writing signed by the party granting such waiver or consent.

10. Compliance with Laws

Consultant warrants that in performing work under this order Consultant will comply with all applicable laws, rules and regulations of governmental authorities and agrees to indemnify and save the Company harmless from and against any and all liabilities, claims, costs, losses, expenses, and judgments arising from or based on any actual or asserted violation by the Consultant of any such applicable laws, rules and regulations.

11. Assignment

Consultant agrees that neither this Agreement nor any interest herein shall be assigned or transferred by Consultant except with the prior written approval of the Company.

12. Governing Law

The rights of the parties hereto and the construction and effect of this contract shall be subject to and determined in accordance with the laws of the State of New Hampshire.

13. Severability

If any particular provision of this Contract be rendered or declared invalid by a court of competent jurisdiction of the State of New Hampshire, such invalidation of such part or portion of this Contract should not invalidate the remaining portions thereof, and they shall remain in full force and effect.

**Company**

**Contractor**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
NAME (PRINT OR TYPE)

\_\_\_\_\_  
NAME (PRINT OR TYPE)

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

Date:

Date:

## MUTUAL NONDISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement, (this “**Agreement**”) is dated as of \_\_\_\_\_, 2022 between \_\_\_\_\_, a \_\_\_\_\_ corporation, (“**Company**”), with offices located at \_\_\_\_\_, and Unitil Service Corp. d/b/a Unitil, (“**Unitil**”). Company and Unitil sometimes are collectively referred to herein as the “**Parties**” and individually as a “**Party**”.

### RECITALS

A. In connection with the negotiation of a definitive agreement for the provision of services and/or products by Company to Unitil (a “**Transaction**”), Company and Unitil may disclose or provide access to each other valuable proprietary and confidential information relating to their respective operations and businesses.

B. Each Party would like to protect the confidentiality of, maintain its rights in, and prevent the unauthorized use and disclosure of its proprietary and confidential information.

### AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Company and Unitil hereby agree as follows:

**1. Confidential Information.** As used in this Agreement, “**Confidential Information**” of a Party means all information of a Party or its licensors, suppliers or affiliates that is not generally known to the public that is disclosed by such Party (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”) or that is otherwise learned by or comes into the possession or knowledge of the Receiving Party in connection with, or as a result of a Transaction, during the Term, and that has been identified as being proprietary or confidential or that by the nature of the circumstances surrounding the disclosure or receipt, or by the nature of the information itself, would be treated as proprietary and confidential by a reasonable person. Without limitation, Confidential Information of a Party includes any financial information in any form or medium, and all information of or about an identifiable officer, director, employee, customer or potential customer, and any customer lists or customer data (collectively, the “**Personal Information**”). To the extent that Company will have access to or be provided with any information regarding customers or employees of Unitil, Personal Information includes all information regarding employees or customers of Unitil or regarding third party consumers having contact with Unitil, the confidentiality of which Unitil is obligated to maintain pursuant to applicable federal and state privacy laws, rules, and regulations, including, without limitation, Massachusetts General Laws Chp. 93H and its implementing regulation, as amended.

**2. Use and Disclosure of Confidential Information by Receiving Party Representatives.**

- (a) The Receiving Party will not use Confidential Information of the Disclosing Party for any purpose other than (i) the specific Transaction for which such information was disclosed, (ii) as otherwise approved in writing by the Disclosing Party, or (iii) as otherwise permitted by this Agreement or any agreement that incorporates this Agreement by reference (“**Transaction Document**”).
- (b) The Receiving Party will not disclose or provide access to any Confidential Information except as permitted by this Agreement or any Transaction Document.
- (c) The Receiving Party will take appropriate steps to implement technical and organizational measures to ensure Confidential Information is safeguarded: (i) in accordance with industry accepted best practices and standards used or observed by comparable companies in North America; and (ii) by adopting and complying with documented policies and procedures designed to protect against any anticipated threats or hazards to the security or integrity of Personal Information, and against any loss, theft, unauthorized access, use, disclosure, copying, or modification.
- (d) The Receiving Party will restrict access to: (i) Confidential Information to those employees, affiliates, agents, advisors, consultants and other representatives of Receiving Party

(“**Representatives**”) who have a need to know for the purposes of the Transaction; and (ii) only the Confidential Information such Representatives need for such purpose and under obligations of confidentiality no less stringent than those contained in this Agreement. The Receiving Party will be liable for any failure by its Representatives to comply with the terms of this Agreement.

- (e) The Receiving Party will collect, use, store, disclose, dispose of, provide access to and otherwise handle Personal Information received, collected or accessible to the Receiving Party hereunder in accordance with all privacy laws applicable to Receiving Party and such information.

**3. Exceptions.** The provisions of Section 2 will not apply to any information that:

- (a) the Receiving Party can establish, by documentary evidence, was already known by the Receiving Party at the time of initial disclosure by the Disclosing Party;
- (b) is or becomes publicly known through no wrongful act of the Receiving Party or its Representatives, or any other person subject to a confidentiality agreement in favour of the Disclosing Party;
- (c) is rightfully received from a third party without similar restriction provided that the third party did not come into possession of the Confidential Information as a result, directly or indirectly, of a breach of an obligation of confidentiality owed by any person to the Disclosing Party;
- (d) the Receiving Party can establish, by documentary evidence, was independently developed by or on behalf of the Receiving Party without reference to the Disclosing Party’s Confidential Information; or
- (e) is approved for release by written authorization of the Disclosing Party.

However, the foregoing exceptions are not applicable to any Personal Information.

**4. Legal Obligation to Disclose.** Unless otherwise prohibited by law, if the Receiving Party becomes legally obligated to disclose Confidential Information, the Receiving Party will give the Disclosing Party prompt written notice sufficient to allow the Disclosing Party to seek a protective order or other appropriate remedy, and will reasonably cooperate with the Disclosing Party’s efforts to obtain such protective order or other remedy at the Disclosing Party’s expense, and in the event the Receiving Party is unable to do so, the Receiving Party will (so long as not prohibited by law from doing so) advise the Disclosing Party immediately subsequent to such disclosure. The Receiving Party will disclose only such information as is required, in the opinion of its counsel, and will use commercially reasonable efforts to obtain confidential treatment for any Confidential Information that is so disclosed.

**5. Storage of Confidential Information.** Receiving Party will keep Disclosing Party’s Confidential Information logically isolated from any data of its other customers or suppliers, so that: (i) Confidential Information is not commingled with third party data or disclosed in conjunction with any disclosure of third party data; and (ii) Receiving Party can readily locate and/or return Confidential Information in accordance with this Agreement. Except where authorized by Unitil in writing, Company will not collect, use, store, disclose, dispose of, provide access to or otherwise handle any Unitil Personal Information outside the United States of America.

**6. Additional Obligations for Personal Information.** To the extent Company is given access to or provided with any Personal Information for purposes of the Transaction,

- a) Company will ensure that all Representatives engaged in the performance of the Transaction that may have access to Personal Information have been trained in privacy compliance;
- b) Company will designate an employee who will be responsible for all Personal Information in Company’s possession or under its control and for ensuring that Company complies with the provisions of this Agreement; and
- c) Company will, unless prohibited from doing so by applicable law, refer to Unitil all requests for access to Personal Information and will respond to any such request only by making reference to such referral. If Unitil is required by any applicable law to provide Unitil’s Personal Information that is in Company’s possession or control to an individual, at Unitil’s request, and provided that Unitil has provided Company with reasonable prior notice, Company

will provide such Personal Information and will meet any deadlines for such provision required to enable Unitil to comply with any deadlines applicable under such law to the provision of Unitil's Personal Information.

**7. Unauthorized Disclosure of Confidential Information.** If there is any unauthorized access to, disclosure or loss of, or inability to account for, any Confidential Information of the Disclosing Party, the Receiving Party will promptly upon learning of same, and in the case of Personal Information no later than five days after becoming aware thereof, (i) notify the Disclosing Party; (ii) take such actions as may be necessary or reasonably requested by the Disclosing Party to minimize the disclosure or loss; and (iii) cooperate in all reasonable respects with the Disclosing Party to minimize the impact of the disclosure or loss and any damage resulting therefrom.

**8. Ownership of Confidential Information.** All Confidential Information will remain the exclusive property of the Disclosing Party, and the Receiving Party will have no rights, by license or otherwise, to use the Confidential Information except as expressly provided herein or in a Transaction Document.

**9. No Warranty.** Except as otherwise agreed in writing in respect of a specific Transaction, no warranties of any kind are given by either Party with respect to the accuracy, appropriateness or completeness of information provided to the other.

**10. Return and/or Destruction of Confidential Information.** Subject to the provisions of a Transaction Document, upon the Disclosing Party's written request, the Receiving Party will promptly return or destroy, and verify in writing its destruction of, all material, in any form, embodying Confidential Information of the Disclosing Party. In carrying out any destruction, the Receiving Party will protect Confidential Information in accordance with the terms of this Agreement.

**11. Injunctive Relief.** The Receiving Party acknowledges that disclosure or use of Confidential Information in violation of this Agreement could cause irreparable harm to the Disclosing Party for which monetary damages may be difficult to ascertain or be an inadequate remedy. The Receiving Party therefore agrees that the Disclosing Party will have the right, in addition to its other rights and remedies, to seek injunctive relief for any violation of this Agreement.

**12. Limited Relationship.** This Agreement will not create a joint venture, partnership or other formal business relationship or entity of any kind, or an obligation to form any such relationship or entity. Each Party will act as an independent contractor and not as an agent of the other Party for any purpose, and neither will have the authority to bind the other.

**13. Cumulative Obligations.** Each Party's obligations hereunder are in addition to, and not exclusive of, any and all of its other obligations and duties to the other Party, whether express, implied, in fact or in law.

**14. Entire Agreement; Amendment.** This Agreement constitutes the Parties' entire understanding with respect to the subject matter hereof, and supersedes any and all oral or written agreements, understandings or expressions with respect thereto. This Agreement may be modified only by a writing duly executed by each of the Parties.

**15. Scope; Termination.** **This Agreement is intended to apply to all Confidential Information that is disclosed by the Disclosing Party to the Receiving Party or that is otherwise learned by or comes into the possession or knowledge of the Receiving Party, whether prior to, on or subsequent to the date hereof.** Either party may terminate this Agreement by providing written notice to the other. Notwithstanding the termination of this Agreement, (i) the obligations set out herein will continue to apply with respect to Confidential Information disclosed prior to receipt of such written termination notice for as long as the exceptions in Section 3 do not apply to such information.; and (ii) this Agreement will continue to apply to any Transaction Document in accordance with the terms of the Transaction Document.

**16. Nonwaiver.** Any failure by either Party to enforce the other Party's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

**17. Governing Law; Etc.** This Agreement shall be interpreted and construed in accordance with the laws of the State of New Hampshire, without regard to principles of conflicts of law thereof, and any disputes arising hereunder shall be adjudicated in the federal or state courts of the State of New Hampshire, to whose jurisdiction the Parties hereby irrevocably submit and as to venue the Parties hereby waive all objections. If any provision under this Agreement is held invalid, illegal or unenforceable by a tribunal or court of competent jurisdiction, such invalidity shall not affect the enforceability of any other provision contained in this Agreement, and the remaining portions of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law. This Agreement may be executed in counterparts and each such counterpart will constitute an original document and such counterparts, taken together, will constitute one and the same instrument. This Agreement may not be assigned by either Party. This Agreement will ensure to the benefit of and be binding upon the Parties and their respective successors.



In witness whereof, the Parties have executed this Agreement on the date first written above and the undersigned are duly authorized to sign this Agreement.

***[Insert Company Name]***

**Unitil Service Corp. d/b/a Unitil**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_