

# General Conditions For Construction Services Power Production

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## **General Conditions For Construction Services Power Production**

### **GC-1 DEFINITIONS**

GC-1.1 The definitions set forth below shall apply to all of the Contract Documents and are expressly incorporated into the same by this reference:

“Access Roads” shall mean all roads which are used to gain access to the Work. “Access Roads” are in three categories:

1. Existing roads to the Work which do not need to be improved.
2. Existing roads to the Work which must be improved.
3. Roads which are to be constructed as part of the Work.

“Addenda” shall mean written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding and performance requirements or the proposed Contract Documents.

“Additional Work” shall mean labor, services, materials, equipment, transportation, tools or facilities requested by IPC, outside the original scope of Work, not inferable as within the Project, and not included in the Contract Documents, and requiring acceptance of Contractor. Additional Work is compensated for Contract Price and/or Contract Time as specified in the Change Order authorizing the work, and if not specified, then on the basis set forth in Sections GC-9 and GC-18.

“Approved Schedule” shall mean the detailed timeline for performance of the various phases and/or stages of the Work by Contractor, from the Commencement Date to full performance by the Project Completion Date, as mutually approved by Contractor and IPC, all as set forth in Section GC-9 of these General Conditions.

“Approved”, “Considered Necessary”, “Acceptable”, “Satisfactory”, or words of like import, shall mean approved or considered necessary by, acceptable or satisfactory to the IPC's Authorized Representative, unless another meaning is plainly intended.

“Change Order” shall mean a written agreement between IPC and Contractor that affects the Work, the Project Completion Date, Approved Schedule or the Contract Price.

“Collateral Work” shall mean work being carried out by IPC through separate contractors, IPC's employees, or agents which may be at or near the Work site.

“Commencement Date” shall mean the date at which the Contract Time begins.

“Construction Roads” shall mean all roads improved or constructed for the convenience of or to accommodate the Contractor but are not a part of the Work.

“Contractor's Authorized Representative” shall mean a designated representative authorized to act with full authority for Contractor. Contractor agrees to appoint a competent and qualified representative and shall grant such representative authority to make binding and enforceable decisions in the name of Contractor. Contractor shall inform IPC in writing of the name, address and telephone number (day and night) of such representative, who must be approved by IPC. The Contractor Authorized Representative shall not be changed without advance written notice to IPC and approval of the replacement by IPC.

“Contract Documents” shall have the meaning set out in the Agreement but shall in no event include shop drawings or subsurface information. In case of any inconsistency, conflict or ambiguity among the Contract

Documents, Contractor shall first notify IPC of the inconsistency, conflict or ambiguity and IPC will provide prompt written clarification of IPC's intended meaning.

"Contract Price" shall mean the amount set forth in the Agreement as total compensation payable to Contractor for the Work upon its full, timely and satisfactory completion of the Project, as that amount may be amended from time to time by Change Order, as provided in the Contract Documents.

"Contract Time" shall mean the period of time between the Commencement Date and the Project Completion Date as set forth in the Agreement.

"Day" shall mean calendar day, unless otherwise specified.

"Directive" shall mean a written statement issued by IPC, directing Other Work prior to any agreement or adjustment in Contract Price or Contract Time. A Directive shall propose whether and to what extent the Contract Price or Contract Time should be adjusted. A Change Order will be issued to change the Contract Documents.

"Drawings" shall mean, collectively, all maps, plans or drawings and any such supplementary drawings as the IPC's Authorized Representative may issue from time to time.

"Elevation" and the figures or values in reference thereto, or an abbreviation thereof, shall mean the elevation relative to United States Geological Survey Sea Level Datum, as represented by various bench marks in the vicinity of the Work, or shall mean the elevation relative to the arbitrary datum plane fixed by IPC for the particular Work.

"Engineer of Record" or "Engineer" shall mean the person or firm who developed the Project Drawings and Technical Specifications. The Engineer reports to IPC.

"Final Completion" shall be defined as (a) Substantial Completion has occurred, (b) any performance tests designated by IPC have been passed, (c) all Punchlist items, site clean-up, and Restoration have been completed, (d) Record Documents have been accepted by IPC, and (e) Contractor's Notice of Final Completion has been affirmatively accepted, in writing, by IPC.

"Hazardous Material" shall mean any substance or material identified now or in the future as hazardous under any federal, state or local law or regulation, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling disposal and/or cleanup.

"Liquidated Damages" It is anticipated that economic damages and business disadvantages will result from late completion of the Work by the Contractor, should the Contractor fail to complete the Work in a satisfactory manner, and / or in accordance with the Schedule. Should such failure not be attributable to either IPC's fault or causes beyond Contractor's reasonable control, IPC shall be entitled to reduce the Contract amount due to the Contractor for the Work. Such reductions constitute Liquidated Damages, not a penalty, and represent a reasonable estimate of actual loss and damages that IPC will suffer.

"Milestone" shall mean a date or dates set forth in the Special Conditions for interim completion dates. The Contractor shall be obligated to meet milestone dates or Liquidated Damages may apply.

"Modified Work" shall mean the alteration, addition, or reduction to or from the Work ordered by IPC in a Directive or Work Clarification, in which the alteration, addition, or reduction is reasonably inferred to be within the original scope of Work or part of the Project, but is not otherwise required by the Contract Documents. Any addition to, or reduction in, the Contract Price and/or Contract Time for Modified Work shall be by the means set forth in Sections GC-9 and GC-18.

"Notice of Award" shall describe a written notice by IPC to the successful bidder stating that upon timely compliance by the successful bidder with the conditions precedent listed therein, IPC will sign and deliver the Agreement.

"Notice of Final Completion" shall mean the document Contractor gives to IPC stating that Contractor has determined that Final Completion of the Project has occurred.

"Notice to Proceed" shall describe a written notice given by IPC to Contractor fixing the Commencement Date and on which Contractor can start to perform the Work under the Contract Documents.

"Other Work" shall mean Modified Work or Additional Work, whichever is applicable, that is described and authorized in a Directive or Work Clarification and/or as otherwise required under these General Conditions. Other Work shall become part of the Work for purposes of application of these General Conditions.

"IPC's Authorized Representative" also "IPAR" shall mean the person designated in writing by IPC to act on its behalf.

"Phased Completion" shall mean the date or dates set forth in the Special Conditions for completion of one or more discreet phases of the Work.

"Project" shall mean the total construction, the final intended improvement or other final result, of which the Work to be performed under the Contract Documents may be the whole, or a part, as indicated in the Agreement.

"Project Completion Date" shall mean the date set forth in the Agreement for Final Completion of the Work.

"Record Documents" shall mean all red-lined drawings, as-built drawings, samples, Shop Drawings, operation and maintenance manuals, performance curves, and other Project data associated with construction.

"Request For Information" shall be the contractor's form for requesting information as it pertains to the Project Drawings or Technical Specifications during construction.

"Restoration" or "Restore" means to remove all waste or excess construction materials, clean up and disposal of all brush, trees and debris, grade and reseed all disturbed areas, repair/replacement of any and all property damage caused by Contractor.

"Shop Drawings" shall mean all Drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

"Specifications", or "Technical Specifications" shall mean, collectively, all terms and requirements pertaining to the Work and any amendments, revisions, deductions or additions thereto, and all written agreements made or to be made, pertaining to the Work or to the quantities and qualities of labor, materials and/or equipment to be constructed, installed and/or furnished by Contractor.

"Subcontractor" shall mean a person or entity who has an agreement with the Contractor to perform any portion of the Work. The term Subcontractor does not include the Architect/Engineer or any separate contractor employed by IPC or any separate contractor's subcontractors.

"Sub-subcontractor" shall mean a person or entity who has an agreement with a Subcontractor to perform any portion of the Subcontractor's work.

"Substantial Completion" shall mean when, except for minor items of work that would not affect the performance or operation of the Project, such as painting, landscaping and so forth, (a) all materials and equipment for the Project have been installed substantially in accordance with the Contract Documents, are operational and have been checked and tested as required by IPC; and (b) a Punchlist of the uncompleted items (not impacting the use, occupation and operation of the Project) and dates for completion of those items shall be established and mutually agreed upon by IPC and Contractor, unless IPC waives in writing completion of Punchlist items.

“Unit Price Work” shall mean Work in which all or a part of the Contract Price is based upon agreed unit prices set forth in a Schedule of Unit Prices.

“Work” shall mean the construction and services described in the Contract Documents and incidental thereto and includes, and is the result of performing or providing all labor, services, materials, equipment, transportation, tools and facilities incidental or necessary for the construction, installation, furnishing, and incorporation of all materials and equipment into such construction, and completion of such improvements, all as required in the Agreement or which are necessary or desirable to complete the Project in accordance with and reasonably inferable from the Contract Documents.

“Work Clarification” shall be IPC’s form for resolving additional information requests, clarifying conflicting information, issuing Modified Work, or interpreting discrepancies found during construction. The Work Clarification may or may not result in a Change Order.

“Work site” means the geographical area in and around which the Work is to be performed, and the ingress and egress thereto.

GC-1.2 Prior to taking action on any term(s) which is ambiguous, unclear, conflicting, or not otherwise defined in the Contract Documents, Contractor agrees to refer such term(s) to IPC for interpretation.

## **GC-2 IPC’S AUTHORIZED REPRESENTATIVE**

GC-2.1 IPC shall furnish an IPC’s Authorized Representative (also referred to herein as “IPAR”) to act on behalf of IPC under this agreement.

GC-2.2 IPC or IPAR may observe Contractor’s work in progress, perform field checks of materials and equipment, to certify performance of Work for purposes of authorizing payment and completion, and such other functions as IPC deems advisable.

GC-2.3 IPC, by and through the IPAR, reserves the right to halt Work, request the removal of an employee, agent or representative of Contractor from the Work site, or take such other action the IPAR deems reasonable, in the event the IPAR observes a potentially life threatening or otherwise dangerous situation, or if the person sought to be removed poses a danger to him or her self, others or to property, as judged by the IPAR. Delay caused by IPC’s exercise of this right shall not be the basis for a claim for additional compensation from Contractor, based on Section GC-16 relating to Delay Claims, or otherwise, and Contractor shall bear all costs and expenses of catch-up work required to put the Work in compliance with the Approved Schedule when Work resumes after being halted in accordance with this Section.

GC-2.4 None of the IPAR’s assistants or agents, shall have the authority to waive on behalf of IPC any of the obligations of Contractor. Waiver of any obligation may only be accomplished in writing, with the signatures of Contractor and IPC.

## **GC-3 CONTRACTOR’S AUTHORIZED REPRESENTATIVE**

GC-3.1 Contractor shall provide a Contractor’s Authorized Representative having competent on-site supervision during any and all construction activities by the forces of Subcontractors and is the single point of contact with IPC. The Contractor’s Authorized Representative shall be identified as defined in the Instructions To Bidders, unless otherwise noted, and at a minimum be on-site from the Notice to Proceed date to the Substantial Completion date.

GC-3.2 Contractor’s Authorized Representative shall be responsible for administration of the day-to-day operation of the Project and the Work site safety for all workers, vendors, and members of the public.

GC-3.3 Contractor’s Authorized Representative shall give personal attention constantly to the faithful prosecution of the Work, and shall be present in person on the site of the Work continually during its progress.

#### **GC-4 IPC'S RESPONSIBILITIES**

GC-4.1 Issue all communications to Contractor through IPAR.

GC-4.2 Furnish the data and documents required of IPC under the Contract Documents.

GC-4.3 Make payments to the Contractor when they are due as provided in GC-20.

GC-4.4 IPC will establish and maintain baselines and bench marks adjacent to the various sections of Work. All marks and stakes shall be carefully preserved by Contractor and in the event they are removed or destroyed by Contractor, its employees, subcontractors or suppliers, such marks and stakes will be replaced by IPC at Contractor's expense.

GC-4.5 Perform construction inspections, tests, and approvals as set for in GC-14.

GC-4.6 IPC shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incidental thereto, or for any failure of Contractor to comply with the laws and regulations applicable to the performance of the Work. IPC will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

#### **GC-5 CONTRACTOR'S RESPONSIBILITY**

GC-5.1 Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

GC-5.2 Subcontractors:

GC-5.2.1 If Contractor shall cause any part of the Work to be performed by a subcontractor, the provisions of the Contract Documents shall be made applicable to such subcontractor and his or its officers, agents and employees in all respects. Contractor shall not, in any manner thereby, be discharged from its obligations and liabilities hereunder, but shall be liable hereunder for all acts and negligence of any subcontractor, its officers, agents and employees. No subcontract shall be made without the approval of IPC and the IPC's Authorized Representative and no such approval shall affect the provisions hereof. Upon request of IPC, copies of all subcontracts shall be furnished to IPC and the IPC's Authorized Representative.

GC-5.3 Contractor's Responsibility for Work and Safety

GC-5.3.1 Notwithstanding any provision in the Contract Documents to the contrary, Contractor shall at all times be primarily responsible for, and shall not be relieved of, its obligations to secure the quality of Work, the safe conduct of the Work and safety of the Work site(s), and the rate of progress required by the Contract Documents. Contractor alone shall be and remain solely liable and responsible for the means, methods, techniques, procedures or sequences selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with laws and regulations applicable to Contractor's performing and furnishing the Work, and for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

GC-5.4 Protection of Workers and Others

GC-5.4.1 Contractor will be solely and completely responsible for the training of its employees and the conditions of the Work site, including safety of all persons and property during the performance of the Work. This requirement will apply continuously and will not be limited to normal working hours. It shall be the responsibility of Contractor to:

- a. Develop a Safety Program applicable to all phases of the project construction which will require compliance by the employees and agents of Contractor and all project subcontractors with federal, Occupational Safety and Health Administration (OSHA), state and local safety and health laws and regulations, relating to work safety and health. In any situation where any law or regulation is in conflict with any other law or regulation, the most stringent requirements shall be followed.

- b. Assure that all employees and agents of Contractor and project subcontractors are informed of the applicable provisions of the Safety Program.
- c. Provide designated safety personnel at the Work site whose responsibilities shall include:
  - i) Regular inspection of the Work site for compliance with federal, OSHA, state and local safety and health laws and regulations relating to work safety and health.
  - ii) Maintenance of a written record evidencing the conduct of inspections of the Work site, the detection of acts or practices by employees or agents of Contractor or subcontractor which are not in compliance with the Safety Program and the corrective action taken by Contractor to maintain compliance with the Safety Program.
  - iii) Conducting regular meetings with employees and agents of Contractor and subcontractor to discuss matters related to the Safety Program and compliance therewith.
  - iv) Implement and adhere to the Safety Program, including the undertaking of corrective action to maintain adherence to the Safety Program.

GC-5.4.2 In those instances, but only in those instances, where the IPC's Authorized Representative observes a practice or condition which poses an immediate threat of personal injury or harm to persons present at the Work site, the IPC's Authorized Representative shall direct that Contractor immediately eliminate such practice or condition and that until such practice or condition is eliminated, construction activities shall cease to the extent necessary to avoid the risk of imminent harm or injury to persons present at the Work site. In such case, the IPC's Authorized Representative shall prepare and provide to Contractor and IPC, a written report of his or her observation, and the conduct taken by the IPC's Authorized Representative incident thereto.

GC-5.4.3 None of the rights retained by IPC as herein specified shall be interpreted to, nor shall create any obligation on the part of IPC to conduct Work site safety inspections, or to otherwise develop or implement a Work site Safety Program or practices, or assume any responsibility for safe conditions of the Work site, the same being the sole and exclusive responsibility of Contractor.

#### GC-5.5 Contractor's Employees

GC-5.5.1 Contractor shall immediately remove from the Work and the Work site, any person who is, may be, or appears to be, creating any unsafe condition, disorder or disruption, or who is disposed to be disorderly, or who is not skilled or competent to perform the Work, and such person shall not thereafter be permitted on the Work site.

GC-5.5.2 Attention is called to the fact that certain portions of the Work may be specialized work appropriate for workers skilled not only in the general trade but also for workers who have specialized expertise in the particular line of work required. Contractor shall provide that such work shall be done by workers who are skilled and specialized in the work to which they are assigned. Contractor is solely responsible for making sure that all of its workers have been adequately trained for the work to which they are assigned.

GC-5.5.3 None of the Contractor's superintendents, supervisors or engineers may be withdrawn from the Work without due notice being given to the IPC's Authorized Representative; provided, however, that no such withdrawal shall be made if it will jeopardize successful completion of the Work.

#### GC-5.6 Provisions Relating To Labor and Rates of Wages

GC-5.6.1 The Contractor shall be responsible for maintaining labor relations policies and procedures in such a manner as to reasonably provide for harmony among workers, and shall invoke National Labor Relations Board procedures for the resolution of jurisdictional disputes when available and appropriate. The Contractor shall cooperate and require its Subcontractors to cooperate with IPC and other contractors and Subcontractors of all tiers in establishing and maintaining Work rules and practices as needed in the general interest of the total project, and shall cooperate insofar as is lawful and practicable in achieving the prompt resolution of labor disputes at the project; provided that, Subcontractor and IPC shall each separately and solely be responsible for labor relations policies as they affect their own employees. The Contractor shall inform IPC of developments in labor relations or collective bargaining which may result in picketing or Work

stoppages at the project. The Contractor shall assure its Subcontractors of all tiers comply with these provisions with respect to cooperation on labor relations. The Contractor shall be responsible for paying, and for requiring Subcontractors at all tiers to pay, all employees performing Work at the project wages and benefits not less than that required by law, or by applicable labor agreement in the case of unionized Subcontractors, or by applicable wage and personnel policies in the case of nonunion Subcontractors. The Contractor and Subcontractors at all tiers shall be responsible for compliance with all state and federal laws, ordinances, regulations, and statutes dealing with labor relations which are applicable to said Contractor's or Subcontractor's employees, including laws dealing with maximum hours of Work and overtime premium pay.

#### GC-5.7 Intoxicants and Drugs

GC-5.7.1 Contractor shall not permit or suffer the possession or use of intoxicating liquor or drugs upon the Work site or upon any premises occupied or controlled by Contractor pertaining to the Work.

#### GC-5.8 Materials, Equipment and Tools

GC-5.8.1 Contractor shall, at its expense, furnish all material, labor, tools, false work, scaffolding, cribbing, rigging, water, air, steam, electrical energy, equipment and supplies that may be required to accomplish the Work, unless otherwise specifically stated in the Contract Documents. Contractor shall mark all of its tools and equipment so that they can easily be identified as belonging to Contractor.

GC-5.8.2 The Contractor will transport, store, and protect all IPC-furnished materials and equipment after issuance from IPC's warehouse or storage yard and shall be responsible for the IPC-furnished materials and equipment throughout the remainder of the Contract. The Contractor shall be solely liable for any damage (whether to person or property), loss or theft to IPC-furnished materials once the materials are issued to the Contractor until such time as IPC accepts the Work or until excess materials are returned in undamaged condition to IPC's designated warehouse or storage yard.

GC-5.8.3 All salvaged and scrap material removed from existing installations shall be returned to IPC's designated salvage or warehouse location unless otherwise specifically stated in the Contract Documents or unless specifically authorized otherwise in writing by IPC.

#### GC-5.9 Protection of the Work

GC-5.9.1 Contractor shall take all precautions necessary and shall be responsible for the protection and safekeeping of the Work and shall maintain all lights, guards, signs, temporary passages, or other protection necessary for that purpose. All Work shall be done at Contractor's risk, and Contractor shall promptly repair or replace any loss or damage resulting from fire or from any other cause free from all expense to IPC. Contractor shall be responsible for any loss or damage to material, tools or other articles used or held for use in connection with the Work. The Work shall be carried on to completion without damage to any Work, collateral work, or property of IPC or of others and without interference with the operation of existing machinery or equipment.

#### GC-5.10 Cleaning Up

GC-5.10.1 As a part of the Work, Contractor shall completely remove and satisfactorily dispose of all temporary works; shall tear down and dispose of all temporary buildings; shall remove or grade, to the extent directed, all embankments or cofferdams made for construction purposes; shall restore all temporary rights-of-way and access roads; shall satisfactorily fill excavations as directed; shall remove all construction plant and equipment; shall satisfactorily dispose of all rubbish and waste resulting from operations under the Contract Documents and shall do all work necessary to restore the Work site to at least as good an order and condition as at the beginning of the Work.

#### GC-5.11 Record Documents / As-Builts

5.11.1 Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, and Work Clarifications in good order and annotated to show changes made during construction. These record documents, together with all approved Samples and a counterpart of all approved Shop Drawings, will be available to IPC for reference during and at the completion of the Work. These record documents, samples, Shop Drawings, operation and maintenance manuals, performance curves, and other Project data shall be delivered to IPC prior to Final Payment.

## **GC-6 CONTRACTOR INFORMED AS TO CONDITIONS**

GC-6.1 Contractor acknowledges that it has examined all the available records and has conducted a field examination of the site and right-of-way; that it is informed of the subsurface conditions and surface and subsurface water conditions to be encountered, the character of equipment and facilities needed for the prosecution of the Work, the location and suitability of all construction materials, the quantities in the various sections of the Work, the local weather and labor conditions and all other matters in connection with the Work and services to be performed under the Contract Documents.

GC-6.2 Any records of subsurface condition, water records or other observations which may have been made by the IPC's Authorized Representative or IPC have been made with reasonable care and accuracy. Such records may be made available to Contractor for his information only, but there is no expressed or implied representation, warranty or guarantee as to the accuracy of the records or any interpretation of them. Contractor agrees that he has formed his own opinions of the character of the Work to be performed and of materials to be excavated from its own inspection of the site and its own interpretation of records.

GC-6.3 Contractor further states that the Contract Price and Project Schedule is based on his own knowledge and judgment of the conditions and hazards involved, and not upon any representations of IPC or the IPC's Authorized Representative.

## **GC-7 INTERPRETATION OF CONTRACT DOCUMENTS**

GC-7.1 The intent of the Contract Documents are to describe a functionally complete Project to be constructed. Any labor, documentation, services, materials, or equipment that may be reasonably inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to IPC. The Contract Documents are to be construed as complimentary. What is required by one shall be considered to be required by all. In the case of conflicts, ambiguities or inconsistencies in the Contract Documents, Contractor shall request interpretation from IPC, and IPC shall promptly provide clarification to Contractor, which interpretation shall be binding on Contractor and IPC.

GC-7.2 All claims of Contractor, questions concerning interpretation, clarification of this Contract, the acceptable fulfillment of this Contract on the part of Contractor, all questions as to compensation, and extension of time, shall be submitted in writing to IPC for determination within 7 days of discovery. Contractor's failure to ask for a determination within the time allotted shall constitute a waiver by Contractor of all of its rights to future claims, judicial or otherwise.

GC-7.3 IPC shall issue all determinations, instructions and clarifications within 14 calendar days and shall be final, unless the Contractor files with IPC, within 14 calendar days after IPC notifies Contractor of any such determination, instruction or clarification, a written protest stating clearly and in detail the basis thereof. IPC will issue a decision in writing upon each such protest within 14 calendar days of receipt of protest and its decision will be final. At all times, Contractor shall proceed with the work in accordance with the determinations, instruction and clarifications of IPC. Contractor shall be solely responsible for requesting instruction or interpretations and shall be solely liable for any cost and expense arising from its failure to do so. Contractor's failure to protest IPC's determinations, instructions, clarifications or decisions within 14 calendar days after receipt thereof shall constitute a waiver by Contractor of all of its rights to further protest, judicial or otherwise.

## **GC-8 INSURANCE**

GC-8.1 Workers' Compensation - Prior to starting any Work, the Contractor and Subcontractors of any tier shall qualify and thereafter accept exclusive liability as an employer under any applicable Workers' Compensation Act, Employment Insurance Act, Old Age Insurance Act, and any other applicable state or federal law, including the payment or deduction and remittance of any and all contributions, taxes, fees, or charges under such laws. The Contractor and Subcontractors of any tier shall secure and continuously carry a Workers' Compensation insurance policy covering all employees as required and with such additional terms as may be provided by the statutes of the state in which the Work is performed, except the Contractor and Subcontractors of any tier may elect to be covered as a self-insured direct responsibility employer.

GC-8.2 Contractor, at its own expense, shall procure and maintain, during the entire term of the Construction Agreement, the following types of insurance with limits as specified:

- a. Worker's Compensation Insurance shall be at statutory limits and Employer's Liability Insurance shall have the following limits:

Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

A Waiver of Subrogation shall be included in favor of IPC.

- b. Automobile Liability Insurance covering all owned, non-owned, or hired automobiles used in connection with the work. Bodily Injury Liability and Property Damage Liability limits shall not be less than \$2,000,000 each accident Combined Single Limit. An endorsement shall be issued naming IPC as an additional insured.
- c. Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence combined single limit. The insurance shall include coverage for Premises and Operations, Broad Form Property Damage, Contractual Liability, IPC's and Contractor's Protective Liability, Products and Completed Operations (extended for at least 12 months after completion of the operations) and Personal Injury. The policy shall also include coverage for the hazards commonly referred to as the XCU (explosion, collapse and underground). An endorsement shall be issued naming IPC as an additional insured.
- d. Insurance coverage described in Paragraphs a., b., and c. above shall be carried with Insurance companies satisfactory to IPC. Prior to commencing work under the Agreement, Contractor shall provide to IPC a Certificate of Insurance evidencing such Insurance coverage and naming IPC as an additional insured on the coverage described in Paragraphs b and c. These certificates shall contain a provision that coverage afforded shall not be canceled or changed until at least thirty (30) days prior written notice has been given to IPC.

## **GC-9 TIME AND ORDER OF COMPLETION**

GC-9.1 It is the intent of IPC and Contractor that all Work shall be completed by the Project Completion Date or within a reasonable time if no specific completion date is fixed by the Agreement. Within fifteen (15) days of the date of Notice of Award, unless otherwise specified in the Instruction to Bidders, Contractor shall submit to IPC a progress construction schedule in the form of a critical path method diagram, which specifies the dates on which the Contractor plans to begin and complete various parts of the Work. The schedule shall identify all work activities and events that are critical to ensuring Substantial Completion of the Project in conformance with the dates set forth in the Agreement, including coordination between submittal and shop drawing approvals and related Work activities. The schedule shall identify all phases of construction, all Work activities, and all events that will occur during performance of the Work, and shall graphically represent the logical sequence of such phases of construction, Work activities, and events that will occur on the Project. The schedule shall also be in a form acceptable to IPC and upon review and acceptance by IPC, the schedule shall become part of the Contract Documents. In the event the Contractor submits a schedule in a form unacceptable to IPC, the Contractor shall promptly revise the schedule in accordance with the requirements and recommendations of IPC and shall resubmit the revised schedule for acceptance. The accepted schedule shall be distinguished from proposed or unacceptable schedules by the initials of both Contractor and IPC on each page of the accepted schedule, along with the word "Approved" and the date, Thereafter, the accepted schedule so marked shall be referred to as "the Approved Schedule." Once the Approved Schedule is established, the Contractor shall monitor the progress of the Work for conformance with the Approved Schedule and shall, on a monthly basis, submit to IPC written updates reporting the actual status of the Work as compared to the Approved Schedule. Contractor's written updates shall reflect the reasons (to the best of Contractor's knowledge) for deviation, if any, from the Approved Schedule; impacts upon the schedule caused by Change Orders; and shall reflect the progress of the Work achieved by the Contractor during the previous update period.

GC-9.2 Changes to the Approved Schedule can only be made by a Change Order. Should the Contractor decide to revise the Approved Schedule, Contractor shall request the revision in writing and shall specifically state the phase(s) and/or sequence(s) affected, the revised schedule dates resulting from the requested revision

and, to the extent that the schedule changes affect the Project Completion Date, and the new Project Completion Date.

GC-9.3 At all times during the performance of the Work, the Contractor shall monitor the progress of the Work to ensure progress is achieved in accordance with the Approved Schedule. In Project updates required under Section GC-9.1, the Contractor shall promptly advise IPC of any delays or potential delays that may negatively impact the progress of the Work or that may jeopardize Substantial Completion of the Project in accordance with the dates and times set forth in the Approved Schedule. In the event the Contractor advises IPC of such delays or potential delays, the Contractor shall provide IPC a written plan to recover such delays that shall set forth any changes in schedule logic, the performance of overtime work, the performance of shiftwork, and/or the use of additional labor required to recover the identified delay.

GC-9.4 IPC, for any reason, may or may not require the Contractor at any time to perform any portion of the Work on an overtime or shiftwork basis. If IPC requires overtime or shiftwork, the premium portion of the labor cost to perform such overtime or shiftwork shall be considered Modified Work, provided IPC has required such to accelerate the schedule or to promote IPC's interest. Overtime work or shiftwork required to enable the Contractor to meet the Approved Schedule as required in Section GC-9.1, or to correct Defective Work, or to otherwise serve the Contractor's interest, is not Modified Work. The Contract Price, the Approved Schedule, or both will be appropriately adjusted pursuant to Section GC-18.3 for all overtime or shiftwork constituting Modified Work. Such adjustments in Contract Price shall be limited to the Contractor's direct costs for the performance of overtime or shiftwork, such as the premium portion of labor rates and any increased supervision or overhead associated with overtime or shiftwork, exclusive of overhead and profit. In no event will the Contractor be entitled to recovery of indirect costs or impact costs associated with the performance of such overtime or shiftwork, including cost related to inefficiencies that arise out of performance of work under overtime or shiftwork conditions, the stacking of trades or other like indirect or impact costs.

GC-9.5 If IPC determines that Contractor's performance of the Work is not in accordance with the Approved Schedule, or the Contractor has failed to reach the level of completion required by the Approved Schedule, IPC shall have the right to direct the Contractor to accelerate the progress of construction. Without waiving any other right or remedy it may have under the Contract Documents, IPC may direct the Contractor to accelerate the progress of construction by (1) working additional shifts; (2) working overtime; or (3) supplying additional manpower, materials, and equipment necessary to meet the approved construction schedule. Upon receipt of such a Directive from IPC, the Contractor shall implement the corrective measures directed by IPC until the progress of the Work meets the requirements of the Approved Schedule. IPC's right to direct Contractor to accelerate the progress of construction under this Subparagraph shall not constitute Modified Work and is for the sole purpose of ensuring the Contractor's maintenance of the Approved Schedule.

GC-9.6 IPC may require the Contractor to make reasonable changes in the sequence of Work at any time during the performance of the Work in order to facilitate the performance of work by IPC or those working for, through, or on behalf of IPC. To the extent such changes affect (whether by increasing or decreasing) Contractor's time and costs, and the procedures of Section GC-16 below have been complied with, the Approved Schedule and/or Contract Price shall be equitably adjusted as provided in Section GC-16.

## **GC-10 SCHEDULE OF VALUES**

GC-10.1 If requested by IPC, within 15 (fifteen) days of the execution of the Agreement by Contractor, Contractor shall submit to IPC a schedule of values apportioning the value, as a percent of the total Contract Price, of each phase or division of Work. The total of each line item of the Schedule of Values shall total the Contract Price. The Schedule of Values is incorporated herein by this reference.

## **GC-11 UNIT PRICE WORK AND ESTIMATED QUANTITIES**

GC-11.1 When the Agreement specifically provides that all or a part of the Work is to be Unit Price Work then Contractor will not be entitled to additional compensation for anticipated profits, for loss of profits or for damages of any kind because no work is ordered under certain items or because of any difference between the quantities of the various kinds of work actually performed or materials actually delivered and the estimated quantities of labor, materials or equipment set forth in the Contract Documents.

## **GC-12 SHOP DRAWINGS**

GC-12.1 Contractor shall submit Shop Drawings and Samples to IPC for review and approval. Where a Schedule of Submittals is required, Contractor shall submit the Schedule, Shop Drawings, and Samples accordingly.

- a. Shop Drawings.
  - i) Submit 3 copies.
  - ii) Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show IPC the services, materials, and equipment Contractor proposes to provide and to enable IPC to review the information for the limited purposes required by Section GC-12.4.
- b. Samples.
  - i) Submit 1 sample, unless Contractor requests a returned sample.
  - ii) Clearly identify each Sample as to material, supplier, pertinent data such as catalog numbers, the use for which intended and other data as IPC may require to enable IPC to review the submittal for limited purposes required by Section GC-12.4.

GC-12.2 Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to IPC review and approval of the pertinent submittal will be at the sole expense, risk or removal, and responsibility of Contractor.

GC-12.3 Submittal Procedures:

- a. Before each Shop Drawing or Sample submittal, Contractor shall have determined and verified:
  - i) All field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
  - ii) The suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;
  - iii) All information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and
  - iv) Shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.
- b. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
- c. With each submittal, Contractor shall give IPC specific written notice of any variations, that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to IPC for review and approval of each variation.

GC-12.4 IPC's Review

- a. IPC will provide timely review (within 14 calendar days) of Shop Drawings and Samples in accordance with the Schedule of Submittals. IPC's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
- b. IPC's review and approval will not extend to means, methods, technique, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

- c. IPC's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirement of Paragraph GC-12.3.c, and IPC has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. IPC's review and approval shall not relieve Contractor from responsibility from complying with the requirements of Paragraph GC-12.3.a.

GC-12.5 Resubmittal Procedures: Contractor shall make corrections required by IPC and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the correction called for by IPC on previous submittals.

### **GC-13 PRODUCT SUBSTITUTION**

GC-13.1 The Contractor shall submit to IPC for his review and approval, data on all materials and equipment that differ in any respect from materials and equipment specified in these Specifications. Materials proposed by subcontractors for use in Work not specifically mentioned in the specifications shall be included.

GC-13.2 Whenever the name, brand, or model of a manufacturer's article, product, item of equipment, or system is specified, it is used as a measure of quality and utility or as a standard. No intent to limit competition is inferred or implied. Where more than one manufacturer's name is specified, the first named manufacturer is the basis of design. Second, third, and subsequent named manufacturers shall be considered substitutions, but requests for substitution are not required.

GC-13.3 If the Contractor desires to use another brand or manufacture of quality, appearance, and utility equal to the product specified, he shall request substitution as provided here. IPC will accept/reject the substitution, and his decision shall be final. Unless substitutions are requested and approved as provided herein, deviations from the Drawings and Specifications will not be permitted.

GC-13.4 Requests for substitution will be considered only when the Contractor follows the following procedures:

- a. Submit complete technical data, including drawings; complete performance specification; test data and tests as may be required by IPC; samples of the article proposed for substitution as applicable.
- b. Submit comparative data on the material, equipment, or system to be replaced by the proposed substitution.
- c. Include in the transmittal letter a signed statement that the proposed substitution is in full compliance with the Contract Documents.
- d. Requests for substitutions shall be submitted to IPC in duplicate.
- e. Requests for substitutions shall contain not less than the following information in the headline or subject of the transmittal letter:
  - i) Project Title.
  - ii) Subject (Unit or Division of Work).
  - iii) Drawing and Specification References: Drawing No. and Detail; Specification Section, Article, Paragraph, Subparagraph.

GC-13.5 In the evaluation of a proposed substitution, consideration will be given to the service of the proposed substitution. IPC may require data on not less than three readily accessible, comparable installations of the item proposed for substitution, completed within the past five years. IPC may require the Contractor to furnish a written warranty, with adequate safeguards to IPC, assuring satisfactory performance of a proposed substitute item or system for a stated minimum period of time, usually one year.

GC-13.6 If a proposed substitution requires changes in related Work, which in the opinion of IPC, constitutes a deviation from Contract requirements or aspects of design, it may be rejected.

GC-13.7 The Contractor shall be responsible for changes in other parts of the Work caused by a substitution, at no additional cost to IPC.

GC-13.8 The Contractor shall not proceed with a substitution until IPC has accepted the substitution in writing. Such acceptance shall not relieve the Contractor from complying with the requirement of the Drawings and Specifications.

GC-13.9 Substitutions submitted to IPC that do not comply with the above requirements will be returned to the Contractor without review. Originally specified items shall be furnished, unless a request for substitution is submitted and accepted in accordance with above requirements.

#### **GC-14 INSPECTION, COVERED WORK, DEFECTIVE WORK AND RIGHT OF ACCESS**

GC-14.1 Contractor agrees that IPC may perform thorough and continuous inspections of all Work, including any material and equipment furnished by the Contractor. Contractor shall furnish to IPC and its agents, access at all times to the Work and to the premises used by the Contractor, and shall cooperate with and make reasonable accommodations for inspections, including temporarily discontinuing portions of the Work or uncovering or disassembling portions of the Work. IPC shall not have the duty to make such inspections, however. The expenses of such inspections, except as provided below, shall be borne by IPC.

GC-14.2 If, prior to Final Completion, the Work or any portion thereof is found to be defective, out of compliance with Contract Documents, or shall be damaged in whole or in part by Contractor or those working through, for, or on behalf of Contractor, Contractor agrees to promptly repair or replace such defective Work or damage in a manner satisfactory to IPC and without adjustment to Contract Time or Contract Price. In no case shall defective or imperfect Work be deemed to be accepted by IPC.

GC-14.3 Work that has been covered prior to inspection will be uncovered by Contractor for the purpose of inspection, at the request of IPC. If the Work that is uncovered under this section was required to have been inspected prior to covering, or is determined to be defective or out of compliance with Contract Documents, Contractor shall bear the costs of uncovering, remediation or replacement of the Work, and recovering the Work. There shall be no adjustment to Contract Time.

GC-14.4 If the Work was not required to be inspected prior to covering, is in conformance with Contract Documents or the defects in the Work were caused by IPC, its other subcontractors, agents or representatives, then such costs shall be the responsibility of IPC. Costs will be paid at the agreed unit prices for such class of work or, in the event the work of uncovering or taking out of materials or parts and repair or replacement thereof is not covered by agreed unit prices, such work shall be paid for on the basis of actual direct cost of labor, materials, equipment use and incidental expense, as stated in Section GC-18.3.c., except that no percentage mark-up for Contractor's overhead and profit shall be added to actual direct cost of labor, materials, equipment use and incidental expense. Contract Time may be adjusted if the Contractor has complied with Section GC-16.

GC-14.5 If Contractor shall fail to repair or replace any defective or non-compliant Work or materials after reasonable notice, the IPC's Authorized Representative, at its option, may cause such Work or materials to be repaired or replaced, and the expense thereof shall be charged to Contractor and may be deducted from any amount payable by IPC to Contractor.

#### **GC-15 IPC SUSPENSION OF WORK**

GC-15.1 IPC may, without cause, by written order to the Contractor suspend, delay or interrupt the Work, in whole or in part, for such period as IPC may determine.

GC-15.2 Adjustments to the Contract Time for any IPC suspension, delay or interruption of the Work effected pursuant to this section shall be made in accordance with the terms of Section GC-16 hereof.

GC-15.3 No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Work, or if another provision of these General Conditions or the Special Conditions (if applicable) is applied to render an equitable adjustment.

## **GC-16 DELAY AND DELAY CLAIMS**

GC-16.1 Basis of Claim: If the Contractor is delayed at any time in the commencement or the progress of the Work by a justifiable cause beyond the Contractor's control, including an act or omission of IPC, Other Work, labor disputes, fire, discovery of undisclosed or concealed Hazardous Materials, adverse weather conditions not reasonably anticipated for the area or time in which the affected portion of the Work is to be or is being performed, or delay authorized by IPC pending dispute resolution, and provided Contractor is without fault in causing such delay, and such delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by Contractor through the use of alternate sources, work around plans or other means, and such delay will prevent the Contractor from achieving the Approved Schedule, then subparagraphs GC-16.2 through GC-16.4 shall apply:

GC-16.2 Notice of Delay: Upon the occurrence of any Directive by IPC, or event or circumstance that causes any delay to the Project that will or may impair the Contractor's ability to achieve the Approved Schedule (as those dates may be adjusted from time to time by Change Orders) or the Project Completion Date, and not later than 72 hours after the occurrence of such Directive, event or circumstance, Contractor shall provide IPC written notice identifying the Directive, event or circumstance that will or may give rise to such delay and the Work activities, Work sequences or construction phases that will or may be delayed. Failure of the Contractor to provide written notice as required by this subparagraph or to acquire the requisite prior written authorization to proceed with changes to the Work that will or may cause delay arising from a Directive, shall result in waiver of the Contractor's claim for time extensions for delays arising out of such Directive, event or circumstance.

GC-16.3 Delay Claim Procedure: Claims by the Contractor for extensions of time as a result of the delay for which Contractor has given IPC notice shall be submitted in writing to IPC not later than 21 days after the occurrence of the delay causing Directive, event or circumstance that gives rise to Contractor's claim. Contractor shall be permitted to submit such claims only if it has fully complied with the requirements of Subparagraph GC-16.2. Contractor's claim for time extension shall specifically identify the delay causing Directive, event, or circumstance preventing the Contractor from achieving the Project Completion Date and shall provide a detailed quantification of the time impact of the delay upon the Work. Contractor's quantification of time impact of such delay shall include a detailed analysis of the approved construction schedules that (1) identifies the Work activities, Work sequences and construction phases impacted by the delay; and (2) quantifies the time impact upon each activity, sequence and phase. Failure of Contractor to provide such written claim and detailed analysis to IPC within the time frame established shall result in waiver of Contractor's claim for time extension.

GC-16.4 Delay Compensation. To the extent that IPC determines that it is not possible to revise the Approved Schedule to accommodate the change without impacting the Project Completion Date, and further determines that the facts justify a change in the Project Completion Date or change in Contract Price, IPC will:

- a. For properly submitted and valid claims falling within the parameters of Section GC-16.1 which are less than eight (8) consecutive working hours in duration at any one time, IPC will issue a Change Order extending the Project Completion Date for as much time as IPC deems reasonable for Contractor to complete all or any affected portion of the Work. Contractor shall not be entitled to additional compensation or delay damages arising out of or related to the claim.
- b. For properly submitted and valid claims falling within the parameters of Section GC-16.1 which are more than eight (8) consecutive working hours in duration at any one time, IPC will issue a Change Order extending the Project Completion Date for as much time as IPC deems reasonable for Contractor to complete all or any affected portion of the Work and determine the amount of additional compensation due Contractor, based upon the same criteria used for valuing changes in the Work, as set forth in these General Conditions Section GC-18 and issue a Change Order therefore. For this section to apply, Contractor must first provide adequate documentation of its costs and expenses in a timely fashion to IPC; show that it was otherwise in compliance with the Approved Schedule at the time of the delay, show it is not in default under the Contract Documents.
- c. If, however, IPC determines that the facts do not justify a change in the Project Completion Date or change in the Contract Price, claims for the same will be denied.

- d. No Other Delay Damages. Except to the extent expressly provided in the Contract Documents to the contrary, an extension of the Project Completion Date shall be Contractor's sole and exclusive remedy for any delay, hindrance, disruption, loss of productivity or inefficiency, of whatever kind, nature or cause, affecting Contractor's commencement, prosecution, or completion of the Work and Contractor shall not be entitled to compensation in connection with any such delay, hindrance, disruption, loss of productivity or inefficiency including, without limitation, direct damages, indirect damages, consequential damages, impact damages or other similar damages or recoveries.

## **GC-17 OTHER WORK**

GC-17.1 IPC may direct Other Work without affecting the validity of the Agreement. All alterations, additions or deductions to or from the Work must be authorized by an applicable Directive, Work Clarification, or Change Order. The Contractor, upon receipt of a Directive, Work Clarification, or Change Order, subject to the terms of Sections GC-9 and GC-16, shall expeditiously proceed and carry out the Work directed by such written order.

GC-17.2 IPC shall have the authority to order changes in the Work that have little or no affect upon either the cost of the Work or the time required to complete the Work and such changes in the Work shall be directed by IPC through a Work Clarification and shall bind IPC and the Contractor. No additional compensation shall be paid and no reduction in Contract Price shall result from such.

GC-17.3 Upon receipt of such Directive, Work Clarification, or Change Order, subject to the terms of Sections GC-9 and GC-16, the Contractor shall promptly proceed with the change in the Work described therein and shall notify IPC of its agreement or disagreement with the Contract Price, Approved Schedule or Project Completion Date adjustment or method of adjustment, if any, described in such. If Contractor objects to IPC's proposal or denial of compensation or Approved Schedule or Project Completion Date adjustment(s) then Contractor may submit a written claim in accordance with Sections GC-18.1 and GC-18.2 below, but shall proceed with the Work.

## **GC-18 CLAIMS FOR OTHER WORK**

GC-18.1 Upon the occurrence of any Directive or Work Clarification by IPC, or event or circumstance that causes or requires the Contractor to perform what it believes to be Other Work, not later than 72 hours after the occurrence of such Directive, event or circumstance, Contractor shall provide IPC written notice identifying the event or circumstance that gives rise to such Other Work and the effect such work will have on the Approved Schedule. Failure of the Contractor to provide written notice as required by this subparagraph, or to acquire the requisite written authorization to proceed with Other Work arising from a Directive or Work Clarification, shall result in waiver of Contractor's claims for increase in the Contract Price or extensions of time for performance of the Work.

GC-18.2 Claims by the Contractor for Other Work, seeking recovery of the cost or expense of such work, shall be submitted to IPC in writing not later than 21 days after occurrence of the Directive or Work Clarification that gives rise to Contractor's claim. Contractor shall be permitted to submit such claims only if it has fully complied with the requirements of Subparagraph GC-18.1. Contractor's claim for such work shall specifically identify the Directive, event or circumstance causing the performance of such work and shall specifically identify the Other Work performed by the Contractor. Contractor's claim shall also contain a comprehensive quantity survey and cost accounting of the work Contractor claims as Other Work. Failure of Contractor to provide such written claim to IPC within the time frame established shall result in waiver of Contractor's claim for such Other Work.

GC-18.3 Adjustments to Contract Price authorized by a Change Order shall be as follows:

- a. By applying agreed unit prices (if any) applicable to the Other Work; or
- b. By agreed lump sum adjustment to the Contract Price; or
- c. If neither a. or b. above applies, then the Contract Price will be adjusted in the amount of actual direct cost of added labor, Contractor-furnished materials, subcontracts and equipment less estimated savings for deleted labor, Contractor-furnished materials, subcontracts and equipment, plus fifteen percent (15%) of the net amount for Contractor's overhead and profit. It is agreed that the overhead-profit percentage fee shall cover all Contractor's profit and job site overhead for superintendents,

transportation and use of small tools and equipment not susceptible to classification under transportation equipment or heavy equipment, general office overhead, insurance, bond, if any, and all other indirect and incidental expense.

- d. Where the Modified Work includes a reduction in Work, then the reduction will be credited to IPC either on the basis of reduced Contract Time and accelerated Project Completion Date or reduction in Contract Price, as the parties may agree in a Change Order. The amount of credit to be allowed IPC on the Contract Price under this subparagraph will be the amount of the actual net decrease in cost plus a deduction in Contractor's overhead-profit by an amount equal to 15% of such net decrease.

GC-18.4 Calculations for purposes of GC-18.3.c. shall be based on the following:

- a. Labor: Straight-time labor (straight-time payroll) direct costs, overtime labor (premium payroll) direct costs, and payroll burden plus the overhead-profit percentage fee will be paid for those hours directly involved in completing the Other Work.
  - i) Straight-time payroll is defined as the wage rate paid for hours worked during the normal work week usually a forty hour week.
  - ii) Premium payroll is defined as a wage rate higher than straight-time, payable for overtime work. The premium payroll shall not exceed 1.5 times straight-time and will be reimbursed only if given written approval in advance by IPC and only when overtime is not incurred as result of Contractor's delay or inefficiency. The premium pay in excess of the straight-time rate is not subject to the overhead-profit percentage fee.
  - iii) Payroll burden (loading) is defined as those costs specifically assignable to direct payroll which includes the following: FICA, FUI-SUI, vacation/holidays, sick leave, health and accident insurance, pension and direct and indirect union fringes and other benefits when applicable.
- b. Subsistence: Subsistence will be paid only if it can be shown that, as a result of the Other Work, the worker's number of days on the job were extended and that those workers were actually being paid subsistence by the Contractor during the time period in question. Subsistence is not to be included in the hourly payroll rate. Subsistence will be compensated at the direct cost paid to the employee and is not subject to the overhead-profit percentage fee.
- c. Contractor-furnished Materials: Contractor-furnished materials verified by IPC as necessary for the Other Work will be compensated at actual invoice cost plus the overhead-profit percentage fee.
- d. Subcontracts: Subcontracts, of any tier, must be approved in advance by IPC for any portions of Other Work. IPC has the right, but not the duty, to inspect the contract entered into between Contractor and Subcontractor. Subcontract costs will be compensated at actual invoice cost plus the overhead-profit percentage fee.
- e. Equipment:
  - i) For Other Work involving the use of transportation equipment and heavy equipment such as trucks, tractors, derricks, cranes, excavators, etc., Contractor shall be paid for actual use at agreed rental prices not to exceed rental prices of comparable equipment available to IPC from commercial rental sources or at rental rates not to exceed 70 percent of the monthly rental rates established in the latest edition of the Rental Rate Blue Book for Construction Equipment, whichever is lower. (Hourly rates calculated using the Rental Rate Blue Book will be 70 percent times the Blue Book monthly rate divided by 176). Said rental prices shall include, unless otherwise specifically agreed to, the furnishing of all necessary power or fuel, lubricating oils and greases, rigging, maintenance and repairs, but unless otherwise specifically agreed to, shall not include labor for operating purposes. Contractor's expense of furnishing all gas, oil, lubrication, maintenance and repair (excluding operating personnel) shall not exceed the operating rates established in the Rental Rate Blue Book. For heavy equipment not self-propelled or readily movable, equipment hauling costs to and from Contractor's nearest equipment yard or nearest project site to the Project will be paid for at the actual rate paid by Contractor provided that rate does not exceed the average rate charged for similar transportation by local heavy equipment transporters. Said rental prices shall determine the complete payment for equipment furnished, including profit, superintendents, general overhead and other indirect expense.

- ii) For Other Work requiring Rental Equipment Contractor shall furnish to IPC a list of equipment by type, size and proposed rental rate. Hourly, weekly and monthly rental rates shall be given for each type of equipment listed. The applicable rental rate (monthly, weekly or hourly) will be whichever is the lesser charge to IPC.
- iii) Hourly rates shall be paid only on such time as equipment is in "actual use". Time of "actual use" is defined as a total of (1) the travel time between the equipment storage area and the Work site, and (2) the time equipment is on the Work site actually in use.
- iv) Standby will be paid to Contractor during any period of Other Work to compensate Contractor for keeping, to the extent required in the notice, its equipment committed to the Other Work in a standby status. The standby charge for equipment shall not exceed thirty-five (35) percent of the agreed upon rental rate and will only be made to equipment that is in operable condition.

## **GC-19 DISPUTE RESOLUTION**

GC-19.1 Except as may be expressly provided elsewhere in the Contract Documents to the contrary, any dispute arising out of or in connection with this Agreement or its performance, including but not limited to its validity, construction, or enforcement shall, to the extent possible, be settled amicably by negotiation between the Parties represented by management of each party, prior to either party taking legal action. Both Contractor and IPC agree to make good faith efforts to resolve any dispute under the Agreement. Negotiations and meetings conducted pursuant to this paragraph shall be confidential and shall be treated as compromise and settlement discussions not admissible in any legal proceeding involving this Agreement, in accordance with state and federal Rules of Evidence.

## **GC-20 RETAINAGE AND PROGRESS PAYMENTS**

GC-20.1 Retainage. From each payment to Contractor, IPC may withhold 5% (five percent) of the amount otherwise due after deduction of any amounts as set forth in Section GC-20.2 below. IPC may, at its option and in its sole discretion, reduce the amount to be retained at any time, collect or not collect retainage, or change its retainage practice at any time during the Agreement without waiving any of its rights under the Agreement.

GC-20.2 Application for Progress Payment. Monthly during performance of the Work, Contractor may make application for payment which application must include an itemized invoice and be in conformance with the Schedule of Values and Schedule of Unit Prices, if applicable. An application for payment which includes a request for payment for Other Work, must include reference to the Change Order authorizing the Other Work and any other substantiating data available to Contractor and requested by IPC. No payments will be made under the Contract Documents except as certified by the IPC's Authorized Representative. The IPAR will make a determination, either by measurement or approximation, of whether the application for payment is consistent with the Schedule of Values, the Approved Schedule, the Schedule of Unit Prices (if applicable) and whether the application accords with the IPAR's determination of the amount of Work performed and materials incorporated into the Work. The IPAR will review Contractor's timeliness and quality of Work through the date of the application, Contractor's payment status with its employees, suppliers, and subcontractor's, and overall compliance with the Contract Documents in the performance of the Work. Based on the IPAR's review, the IPAR may either reject the application or authorize payment in whole or in part. Amounts certified for payment by the IPAR will be only those with which the IPAR has no dispute or objection, less 5% of the payment as retainage, any offsets, prior payments, or other amounts chargeable to Contractor in accordance with the Contract Documents.

GC-20.3 The amount authorized for payment by the IPAR, if any, will be paid by IPC to Contractor within thirty days of the IPAR's approval of payment. The IPAR shall advise Contractor at the time of disapproving or nullifying an application for payment of the specific reasons therefore. If the reasons for the IPAR's objections or disputes are removed, Contractor may renew its application for payment on those items and submit a revised invoice. Payment will only be made upon IPAR approved invoices.

GC-20.4 As a condition precedent to IPC's obligation to make payment to Contractor for any amount sought under a payment application, submitted pursuant to the Contract Documents, the Contractor shall provide to IPC, in a form acceptable to IPC (1) executed waivers of lien and claim in the amount of Contractor's invoice or application for payment; and (2) executed waivers of lien and claim from each Subcontractor or material supplier for which Contractor seeks payment, in the amount sought by Contractor in its invoice or payment application.

GC-20.5 Contractor shall promptly pay each Subcontractor and material supplier the amount paid to the Contractor by IPC on account of each Subcontractor's and material supplier's performance of the Work. The Contractor's subcontract agreements and purchase order agreements shall require each Subcontractor and material supplier to make payment in a similar manner to the entities with which it has contracted for performance of the Work.

GC-20.6 The Contractor shall continue performance of the Work and shall maintain the progress of the Work in accordance with the Approved Schedule during the pendency of any dispute arising out of the Work or the Agreement, including but not limited to, disputes arising out of delay claims, made in accordance with Section GC-16 and disputes arising out of claims for Other Work, made in accordance with Section GC-18. If Contractor continues to perform the Work in accordance with the Contract Documents during pendency of such dispute, IPC shall continue to make payments in accordance with the Contract Documents on undisputed items.

GC-20.7 Notwithstanding anything to the contrary in the foregoing sections, in the event Contractor fails to correct defective or damaged Work, fails to make substantial progress on the Work, or is otherwise in breach of any provision of the Contract Documents, IPC reserves the right, at its discretion, to withhold payments which may otherwise be due Contractor.

### **GC-21 SUBSTANTIAL COMPLETION**

GC-21.1 When the Contractor determines there has been Substantial Completion, Contractor will prepare and submit to the IPAR a Certificate of Substantial Completion which will list the items yet to be completed or corrected, and will identify a date for each of those items to be completed or corrected by Contractor. If the IPAR does not agree with the items or representations in Contractor's Certificate, the IPAR will advise Contractor of the changes it requires and Contractor will revise and resubmit the Certificate of Substantial Completion. After approval of the IPAR and written acceptance of the Certificate of Substantial Completion by IPC, IPC shall take possession, control and risk of loss of the Project and shall thereafter be solely responsible for its day-to-day security, operation, and maintenance.

### **GC-22 FINAL COMPLETION**

GC-22.1 Notice of Final Completion. Promptly after Contractor determines that Final Completion of the Project has occurred, Contractor shall issue to the IPAR a Notice of Final Completion, which shall include relevant Record Documents, performance test reports in reasonable detail, and a completed Punchlist, and which shall set forth the date upon which all of IPC's conditions were satisfied. After receipt of the Notice of Final Completion, the IPAR shall respond to Contractor in writing and either accept such Notice or identify any deficiencies, which shall be promptly corrected by Contractor and the Notice of Final Completion resubmitted to the IPAR. The date the Notice of Final Completion has been accepted in writing by IPC, shall be the date of Final Completion.

GC-22.2 Date of Final Completion. Final Completion of the Project shall be defined to occur on the date on which (a) Substantial Completion has occurred, (b) performance tests designated by IPC have been passed, (c) all Punchlist items have been completed, (d) Record Documents have been submitted and accepted by IPC, and (e) Contractor's Notice of Final Completion has been affirmatively accepted, in writing, by IPC.

### **GC-23 FINAL PAYMENT**

GC-23.1 Upon Final Completion and within 30 (thirty) days of the receipt of the following from Contractor:

- a. final invoice; and
- b. release of any and all liens and consent of surety ( if applicable); and
- c. all documents, data and warranties as provided in these General Conditions; and
- d. an affidavit of Contractor, if requested by IPC, that all indebtedness connected with the Work, including but not limited to, payroll, payments to suppliers, rentals, etc. have been fully and finally paid;

IPC shall pay Contractor any undisputed balance due on the Contract Price and any Change Orders and retention withheld by IPC, less 150% (one hundred and fifty) of the value of disputed item(s). Acceptance of Final Payment by Contractor shall release all claims against IPC, except those expressly reserved in writing by Contractor.

GC-23.2 Notwithstanding the provisions in Sections GC-20 and GC-23, the aggregate of IPC's payments to Contractor, excluding payments earned under Change Orders, shall not exceed the Contract Price.

#### **GC-24 WARRANTY OF TITLE/ WARRANTY OF WORKMANSHIP AND QUALITY**

GC-24.1 Warranty of Title: The Contractor warrants that title to all Work included within Contractor's application will pass to IPC no later than the time of payment and that such title shall be free and clear of liens, claims, security interests or encumbrances of the Contractor, Subcontractors, material suppliers or other entities claiming interest in the Project lands or improvements by reason of having provided labor, material or equipment to the Project.

GC-24.2 All materials and equipment incorporated into any work covered by the Contract shall be of the quality specified and, where not specified, of a grade suitable for their intended use and in conformance with the Specifications, Drawings, Samples and other descriptions set forth in the Contract. Contractor warrants all equipment, materials and labor furnished or Work performed by Contractor, Subcontractor or Suppliers under this Contract against defects in materials (unless furnished by IPC) and workmanship for a period extending to one year after Notice of Completion.

GC-24.3 Contractor shall perform such tests as IPC may require to verify that such repairs and replacements comply with the requirements of this Contract. All costs incidental to such repair, replacement and testing, including the value of any IPC-furnished materials spoiled by the Contractor's failure to comply with the Specifications set out in this agreement, and the removal, replacement and reinstallation of equipment and materials necessary to gain access shall be borne by Contractor. Contractor warrants such repaired or replaced work against defective materials and workmanship for a period of one year from and after acceptance thereof. Should Contractor fail to promptly make the necessary repair, replacement and test, IPC may perform or cause to be performed the same at Contractor's expense. IPC reserves the right to have any such repair or replacement work done when IPC deems advisable and the premium portion only of any overtime shall be to IPC's account. Contractor and its surety or sureties, if any, shall be liable for the satisfaction and full performance of the warranties as set forth herein.

GC-24.4 Remedies: Upon Notice received from IPC, during the Warranty Period, Contractor shall, without additional compensation:

- a. Construction: Re-perform or cause to be re-performed any Work that is found to be deficient in that it fails to meet the standard of workmanship set out in Section GC-24.2; and
- b. Equipment and Materials: Take such steps as may be necessary to repair or replace (at IPC's option) any equipment or materials found to be defective due to failure to meet the standards set out in Section GC-24.2. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

GC-24.5 Notice: Contractor's warranty obligations and liabilities are conditioned on IPC delivering notice of an alleged deficiency or defect, after actual discovery thereof by IPC. Any such Notice of deficiency or defect shall state with reasonable specificity the date of occurrence or observation of the deficiency or defect and the reasons supporting IPC's belief concerning the alleged deficiency or defect. Contractor shall respond to any such Notice not later than thirty (30) days after receipt of any such notice, and Contractor shall promptly commence the appropriate re-performance, repair, or replacement, consistent with Section GC-24.4.

GC-24.6 All warranties or guarantees associated with labor, materials or equipment incorporated into the Project shall be delivered to IPC upon payment for the same but in no event later than the application for final payment. Final payment is contingent upon receipt of all such written warranties, which must be valid and enforceable by IPC.

## **GC-25 COLLATERAL WORK**

GC-25.1 IPC reserves the right to have separate contractors, IPC's employees or agents, as it may elect, enter upon the property near, or the location of, the Work for the purpose of constructing or installing collateral work. Collateral work will be constructed or installed with as little hindrance or interference as possible with the Contractor. Contractor shall cooperate and work in harmony with IPC's employees, agents and other contractors used by IPC.

## **GC-26 REGULATIONS AND PERMITS**

GC-26.1 The Contractor shall comply with all federal, state, and local laws, ordinances and regulations affecting the conduct of the Work, and all such orders or decrees as currently exist and those which may be enacted later, by bodies or tribunals having jurisdiction or authority over the Work; shall give all notices; shall procure all applicable permits, licenses and inspections and pay all fees and charges in connection therewith, except as may otherwise be provided in the Contract Documents; and shall indemnify, defend and save harmless the Company, affiliates, directors, officers, employees, agents and its representatives, and each of them from and against any and all claims, losses, costs, damages, and expense, including attorney fees both at trial and on appeal, arising from or based on the violation of any such laws, ordinances, regulations, orders, or decrees, whether such violations be by the Contractor, its subcontractors, or its employees. Except for permits and fees related to the Work and responsibilities of Contractor under the Contract Documents, IPC shall obtain and pay for all other permits, approvals, easements, assessments and fees required for the development, construction, use or occupancy of permanent structures or for permanent changes in existing facilities, including building permit (s). The Contract Price is based on receiving all necessary governmental approvals in accordance with the Contract Documents, and IPC shall be entitled to an equitable adjustment if there are any Changes to the required design that become required as a result of the insufficiency or lack of appropriate government approvals.

GC-26.2 Should any discrepancy or inconsistency be discovered between the Agreement and any law, ordinance, regulation, order, or decree, the Contractor shall immediately report the same in writing to IPC. The Contractor shall be responsible for the compliance by subcontractors of all tiers with the above provisions.

## **GC-27 EASEMENT AGREEMENTS**

GC-27.1 Contractor agrees to abide by and conform with all conditions set forth in the easements pertaining in any manner to the Work; such easements being expressly made a part of the Contract Documents.

## **GC-28 UNDERGROUND UTILITIES**

GC-28.1 Contractor shall, unless otherwise specifically provided for in writing, make arrangements with utilities and/or a locating company to identify the location of all underground utilities prior to commencing Work. All Work shall be done at Contractor's risk regardless of whether IPC or any other person requests the location of the underground utilities. If any loss or damage shall result, Contractor shall promptly repair or replace such loss or damage free from all expense to IPC.

## **GC-29 INFRINGEMENT OF PATENTS**

GC-29.1 Contractor shall assume all liability and fully indemnify and save harmless IPC, its successors and assigns, from and against all claims, suits, proceedings, damages, losses, expenses, fees and royalties, arising from any infringement, real or claimed, of any patent on any article, machine, manufacture, structure, composition, arrangement, improvement, design, device, methods or process embodied or used in the performance of the Construction Agreement or the Work thereunder. IPC and its successors and assigns will give written notice of all such claims and patent infringement suits or proceedings instituted against it to the Contractor, who shall defend same, and IPC will give Contractor authority, assistance and all available information to enable him so to do.

## **GC-30 REMOVAL OF EQUIPMENT**

GC-30.1 Contractor shall not sell, assign, mortgage, hypothecate or remove equipment or materials which have been installed or which may be necessary for the completion of the Work, without the written consent of the IPC's Authorized Representative.

### **GC-31 ASSIGNMENT OF CONTRACT**

GC-31.1 Contractor agrees that he shall not assign the Agreement or any portion thereof to any person, persons, partnership, company or corporation not satisfactory to IPC, and he shall not make such an assignment until he has received the written permission of IPC. No such assignment, even though thus consented to, shall relieve Contractor from his liability under the Contract Documents for the performance and completion of the Work by the time and in the manner herein contracted for.

### **GC-32 DEFAULT BY CONTRACTOR**

GC-32.1 If the Work shall be abandoned by Contractor or if the Agreement shall be assigned, or any Work subcontracted without consent of IPC, or if Contractor files or becomes subject to bankruptcy or receivership, or shall make any assignment for the benefit of creditors, or if at any time the IPC's Authorized Representative shall be of the opinion that the schedule of work is not being maintained or that Contractor is violating any of the conditions or provisions of the Contract Documents, IPC may suspend further performance by Contractor by written notice served upon Contractor. In the event the circumstances upon which such suspension was based are not cured within one week from the date of said notice, IPC may complete all Work and IPC shall have the right to take possession of and use any of the materials, plant, tools, equipment, supplies and property of any and every kind provided by Contractor for the Work. All expense of completing the Work shall be charged to Contractor and may be deducted from any monies due or that may at any time become due to Contractor. Any amount in excess of such setoff shall be paid by Contractor to IPC promptly upon demand. IPC shall not be required to obtain the lowest price for completing the Work, but may make such expenditures as in its sole judgment shall best accomplish such completion.

### **GC-33 OPTIONAL TERMINATION**

GC-33.1 IPC may, at its option and for any reason, terminate the Construction Agreement in whole, or from time to time in part, at any time by written notice thereof to Contractor, whether or not Contractor is in default. Such termination shall also terminate all subcontracts pertaining to such Work. Contractor and all subcontractors hereby waive any claims for damages, including loss of anticipated profits, on account thereof. As the sole right and remedy of Contractor, IPC shall pay Contractor in accordance with Section GC-33.3 below; provided, however, that those provisions of the Contract Documents which by their very nature survive final acceptance of the Work shall remain in full force and effect after such termination.

GC-33.2 Upon receipt of any such notice, Contractor shall, unless the notice requires otherwise:

- a. Immediately discontinue Work on the date and to the extent specified in the notice;
- b. Place no further orders or subcontracts for materials, services or facilities other than may be necessary or required for completion of such portion of the Work not terminated;
- c. Promptly terminate and/or cancel upon terms satisfactory to IPC all orders and subcontracts to the extent they relate to the performance of the Work terminated or, at IPC's election, assign IPC those orders and subcontracts and revoke agreements specified in such notice; and
- d. Assist IPC, as specifically requested in writing, in the maintenance, protection and disposition of property acquired by IPC under the Construction Agreement.

GC-33.3 Upon any such termination, IPC will pay to Contractor an amount determined in accordance with the following (without duplication of any item):

- a. All amounts due and not previously paid to Contractor for Work completed prior to such notice and for Work thereafter completed as specified in such notice.
- b. The cost of settling and paying claims arising out of the termination of orders for materials and/or equipment (not subcontracts) as provided in Section GC-33.2.c. above.
- c. The reasonable costs incurred pursuant to Section GC-33.2.d. above.

- d. Any other reasonable direct costs incidental to such termination of the Work.
- e. IPC shall not be liable for incidental or consequential damages of any kind.

#### **GC-34 IPC'S RIGHT TO PERFORM CONTRACTOR'S OBLIGATIONS AND TERMINATION BY IPC FOR CAUSE**

GC-34.1 Upon seven (7) days' written notice to the Contractor and the Contractor's surety, if any, IPC may terminate this Agreement for any of the following reasons:

- a. if the Contractor utilizes improper materials and/or inadequately skilled workers;
- b. if the Contractor does not make proper payment to laborers, material suppliers or contractors;
- c. if the Contractor fails to abide by the orders, regulations, rules, ordinances or laws of governmental authorities having jurisdiction; or
- d. if the Contractor otherwise materially fails to perform under the Contract or Contract Documents.

GC-34.2 If, after receipt of the IPC's written notice issued pursuant to Section GC-34.1, the Contractor fails to cure any default within seven days, IPC may, without prejudice to any other rights or remedies it may have under the Contract, terminate this Agreement for cause. A written notice of termination shall be issued by IPC to the Contractor and its surety at the time this Agreement is terminated. Upon such termination, subject to any prior rights of the Surety, IPC may:

- a. take possession of the Work site;
- b. take possession of all Contractor's materials, equipment, tools, and construction equipment;
- c. accept assignment of Subcontracts; and
- d. finish the Work by whatever reasonable method IPC may deem expedient.

GC-34.3 If the Contractor files a petition under the Bankruptcy Code, the Contract shall terminate if the Contractor or the Contractor's trustee rejects the Contract or, if there has been a default, the Contractor is unable to give adequate assurance that the Contractor will perform as required by the Contract or otherwise is unable to comply with the requirements for assuming the Contract under the applicable provisions of the Bankruptcy Code.

#### **GC-35 HAZARDOUS MATERIALS AND MATERIALS BROUGHT TO WORK SITE**

GC-35.1 If after the commencement of the Work, Hazardous Material is discovered at the Work site, the Contractor shall be entitled to immediately stop Work in the affected area. The Contractor shall report the condition to IPC and, if required, the government agency with jurisdiction.

GC-35.2 The Contractor shall not be required to perform any Work relating to or in the area of Hazardous Material without written mutual agreement.

GC-35.3 IPC shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures and/or remedial action. Such measures shall be the sole responsibility of IPC, and shall be performed in a manner minimizing any adverse effects upon the Work. The Contractor shall resume Work in the area affected by any Hazardous Material only upon written agreement between the parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

GC-35.4 If the Contractor incurs additional costs and/or is delayed due to the presence or remediation of Hazardous Material, the Contractor shall be entitled to an equitable adjustment in the Contract Price and/or the Contract Time.

GC-35.5 To the extent not caused by the negligent acts or omissions of the Contractor, its Subcontractors and Sub-subcontractors, and the agents, officers, directors and employees of each of them, IPC shall defend, indemnify and hold harmless the Contractor, its Subcontractors and Sub-subcontractors, and the agents, officers, directors and employees of each of them, from and against any and all direct claims, damages, losses, costs and expenses, including but not limited to attorney's fees, costs and expenses incurred in connection with any dispute resolution process, arising out of or relating to the performance of the Work in any area affected by Hazardous Material. To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence, breach of warranty or contract, or strict liability of IPC.

GC-35.6 Material Safety Data Sheets (MSDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by the Contractor, Subcontractors, IPC or Others, shall be maintained at the Work site by the Contractor and made available to IPC, Subcontractors and Others.

GC-35.7 The Contractor shall be responsible for the proper delivery, handling, application, storage, removal and disposal of all materials and substances brought to the Work site by the Contractor in accordance with the Contract Documents and used or consumed in the performance of the Work.

GC-35.8 To the extent not caused by the negligent acts or omissions of IPC, its agents, officers, directors and employees, the Contractor shall defend, indemnify and hold harmless IPC, its agents, officers, directors and employees, from and against any and all direct claims, damages, losses, costs and expenses, including but not limited to attorney's fees, costs and expenses incurred in connection with any dispute resolution procedure, arising out of or relating to the delivery, handling, application, storage, removal and disposal of all materials and substances brought to the Work site by the Contractor in accordance with the Contract Documents. To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence, breach of warranty or contract, or strict liability of the Contractor.

GC-35.9 The terms of this Section GC-35 shall survive the completion of the Work and/or any termination of this Agreement.

### **GC-36 CONTRACTOR'S RECORD**

GC-36.1 During the term of the Agreement and for a period of three (3) years thereafter, IPC shall have the right to examine any books, records and other documents of the Contractor pertaining to the Work and including, but not limited to, costs or charges submitted to or paid by IPC as compensation to Contractor hereunder. IPC will give Contractor three days' advance written notice of such intended examinations. Contractor's records shall be kept in accordance with generally accepted accounting principles in the particular industry in which Contractor works and shall be kept in such a manner and in sufficient detail to clearly disclose the nature and amounts of the different items of service and cost pertaining to the Agreement and the basis of charges and allocations to the Work.

### **GC-37 INFORMATION SECURITY:**

GC-37.1 IPC shall inform Contractor of IPC's Information Security requirements and Contractor shall comply with IPC's Information Security requirements at all times during the term of this Agreement. Each of the Contractor's personnel who requires electronic access to any network or information system owned by IPC is required to complete IPC's on-line Information Security for Contractors, Vendors and Third Parties training. Upon completion of the training and receiving a passing grade on its test, Contractor personnel will sign an agreement to comply with all IPC Information Security Standards, including both electronic and physical access requirements, prior to receiving access.

### **GC-38 CRIMINAL BACKGROUND CHECK, IDENTITY VERIFICATION AND RELATED SCREENING:**

GC-38.1 IPC is required by federal law and regulations to protect access to its critical assets, both physical and/or electronic. This requires that all contractors, employees, agents, subcontractors, independent contractors, and the employees, agents, or representatives of subcontractors or independent contractors (hereafter for purposes of this Section GC-38.1 only, collectively referred to as "Personnel") satisfactorily complete applicable screening and training requirements for an individual to be cleared for "Unescorted Access"

in a critical asset environment. Failure to do so can result in the imposition of fines to IPC of up to \$1,000,000 per day per violation.

If requested by IPC, Contractor shall conduct, at Contractor's cost and expense, criminal background checks for the current and past countries of residence on all Personnel that have electronic or physical access to IPC facilities. At a minimum, a Social Security number verification and seven-year criminal background check, including felony or misdemeanor convictions involving: (a) violence to persons/property; (b) theft/fraud; (c) drug/alcohol; or (d) traffic/other are required. Employment history, education verification, and professional certifications may also be required by IPC. All background checks will be conducted in accordance with federal, state, provincial, and local laws, and subject to existing collective bargaining unit agreements or other agreements, if any. Contractor shall not allow persons who have not met IPC's criteria to perform Work, unless Contractor has received assent, in writing, from IPC. Contractor shall supply a certification that meets IPC's criteria for each individual employed by Contractor that requires critical asset access.

Contractor shall have and ensure compliance with a substance abuse/drug and alcohol policy that complies with all applicable federal, state and/or local statutes or regulations. In addition, if requested by IPC, Contractor shall ensure a drug test, at Contractor's cost and expense, for all employees, agents, subcontractors or independent contractors and the employees, agents or representatives of subcontractors or independent contractors, that have electronic or physical access to IPC facilities has been completed prior to assignment at IPC. Such drug test shall be a five (5) Panel Drug Test, which should be recognizable at testing labs as a "SamHSA5 panel at 50NG – THC cut-off".

Certification of assigned worker compliance with the criminal background check and the drug test shall be submitted to IPC on the "Drug Testing, Criminal Background Check, and Social Security Verification for Contractors" form, which shall be incorporated herein by this reference. This Certification must be provided to IPC prior to any assigned worker being allowed Unescorted Access in any critical asset environment. Emergency access, pursuant to IPC policy, may be granted, but must be immediately followed by the applicable screening and training requirements for that individual within ten (10) business days of the grant of emergency access.

For any assigned worker who has had a recent background check or drug test, where "recent" shall be defined as less than seven (7) years prior to the assignment date, such recent background check or drug test shall be documented per the previous paragraph.

For any assigned worker who is either terminated by Contractor or for whom Unescorted Access should be revoked, Contractor shall notify IPC prior to the termination or revocation of that individual, whenever possible/practicable to do so, in order that the individual's access may be terminated by IPC. If it is not possible/practicable to notify IPC prior to termination or revocation, then Contractor shall give IPC immediate notification. "Immediate" shall mean notification as soon as possible, and in no case to exceed 24 hours from the decision to terminate/revoke access.

Contractor warrants that Contractor, its employees, agents, subcontractors or independent contractors and the employees of subcontractors or independent contractors have met IPC's criteria or received assent from IPC and are in compliance with Contractor's substance abuse/drug and alcohol policy. Contractor agrees to indemnify and hold harmless IPC for any claim of damages and or imposition of fines resulting from Contractor's negligent, willful, and/or false information provided in relation to the Certification contained in the "Drug Testing, Criminal Background, and Social Security Verification for Contractors" form" required above.

It is understood and agreed that IPC, or its agent, at Contractor's cost and expense, may review Contractor's policies, background checks, and related documentation upon request, subject to applicable federal, state and/or local statutes or regulations. IPC may also request that Contractor provide an ongoing and updated list of persons that have been denied access to the Work or Work site.

### **GC-39 EDISON ELECTRIC INSTITUTE/OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION PARTNERSHIP BEST PRACTICES FOR UTILITY CONTRACTORS RULES**

GC-39.1 In conjunction with an initiative promulgated by the Edison Electric Institute ("EEI") and the Occupational Safety and Health Administration ("OSHA") intended to reduce injuries and fatalities of workers in

the electrical transmission and contracting industry, IPC requires that all contractors performing work for IPC for the purposes of electrical transmission, distribution or generation, comply with the attached EEI and OSHA Partnership Best Practices for Utility Contractors rules ("Rules", See Exhibit A). These rules can also be accessed at <http://www.osha.gov/dcsp/partnerships/national/power/power.html>. Accordingly, Contractor agrees to manage and train its employees and contractors to ensure their compliance with these Rules. Failure of Contractor to comply with the referenced Rules will constitute a material breach of this Agreement.

END OF GENERAL CONDITIONS

**Edison Electric Institute (EEI) and Occupational Safety and Health Administration  
(OSHA) Partnership Best Practices for Utility Contractors (as of 5/28/2008)**

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**BEST PRACTICE**

**SUBJECT: JOB BRIEFINGS**

**PRACTICE STATEMENT:** Provides a uniform methodology and outlines key components of job briefings.

**PRACTICE DESCRIPTION:** Document job sequence, hazards to be encountered, and steps taken to control/eliminate hazards by doing the following:

- A. Define task.
- B. Identify roles & responsibilities.
- C. Identify hazards.
- D. Determine risk mitigation.
- E. Documentation shall include I&I to be used.
- F. Personal Protective Equipment to be used.
- G. Emergency response information.
- H. Number of briefings to be held.

All crew members shall participate in a documented job briefing. Job briefings are to be held at the start of the work shift, as work tasks or hazards differ from original briefing, and as additional personnel arrive at the job site. These job briefings shall include the components of a Hazard Analysis or use your company specific hazard analysis program associated with the work steps, hazards associated with the work step, and ways to eliminate or control the hazards. The job briefing form shall have a provision for each employee to sign to verify they have participated in the job briefing. Each ET&D Partnership company’s management shall establish a review process to ensure that the documented job briefing process is effective.

**BENEFITS:**

- Provides for essential job safety planning guidelines and lists key elements.
- Enhances compliance with OSHA regulatory requirements.
- Incorporates use of a specific hazards identification process in the job planning process that will provide for enhanced controls for risks.
- Proper pre-planning reduces the risk of injury.
- The process and required documentation enhances inclusion and participation of job team members in the safety planning processes associated with the job.

**REFERENCES:**

National Electric Safety Code (NESC, ANSI C2 – Part 4)

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**BEST PRACTICE**

**SUBJECT:** [PRE-USE INSPECTION OF RUBBER PROTECTIVE EQUIPMENT](#)

**PRACTICE STATEMENT:** Protocols related to the effective inspection of insulated protective equipment.

**PRACTICE DESCRIPTION:**

All rubber protective equipment shall be inspected prior to each use. All rubber/plastic insulating equipment shall be inspected for any damage, wear or contamination that would compromise its ability to insulate or isolate the linemen from different potentials. Applicable service dates shall be observed. If upon inspection insulating protective equipment is found to be defective the equipment shall be identified and removed from service.

**BENEFITS:**

Provides for uniform inspection guidelines that can be applied industry wide

**REFERENCES:**

- ASTM F478 – 1999 Standard Specification for In-Service Care of Insulating Line Hose and Covers
  - ASTM F479 – 2001 Standard Specification for In-Service Care of Insulating Blankets
  - ASTM F496 – 2002 Standard Specification for In-Service Care of Insulating Gloves and Sleeves
  - ASTM F1236 – 2001 Standard Guide for Visual Inspection of Electrical Protective Rubber Products
  - National Electric Safety Code (NESC, ANSI C2 – Part 4)
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**BEST PRACTICE**

**SUBJECT:** [ADMINISTRATIVE CONTROLS](#)

**PRACTICE STATEMENT:** Injuries to personnel from improper job planning and risk assessment.

**PRACTICE DESCRIPTION:** Identify type and quantity of Insulate and Isolate components

- A. Pre-planning to begin at the pre-bid meeting.
- B. Preliminary job site analysis.
- C. Contractor shall request information from the Host Employer so that the Contractor may be able to conduct adequate risk assessments prior to beginning operations.
- D. Line work on conductors or equipment shall be performed when they are de-energized or a portion is de-energized and grounded when possible.

**BENEFITS:**

Eliminate injuries resulting from improper planning by ensuring key job hazards are identified and controlled and provide support to contractors in obtaining needed information for effective risk assessments.

**REFERENCES:**

- National Electric Safety Code (NESC, ANSI C2 – Part 4)
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**BEST PRACTICE**

**SUBJECT:** QUALIFIED OBSERVER

**PRACTICE STATEMENT:** Identify and utilize qualified observer for critical tasks.

**PRACTICE DESCRIPTION:** A member of the crew shall be identified to act as an observer to ensure clearances are maintained, PPE, and effective cover-up is installed. The observer shall be capable of the identifying nominal voltages, energized components, minimum approach distances, and proper safe work practices while crewmembers are working on energized lines.

NOTE: This section is not intended to mandate staffing requirements.

- A. The term "effective cover up" is used to describe the installation of phase-to-phase rated insulated protective cover on energized conductors and/or equipment of different potentials when the lineman is within reaching distance or in areas extended by handling conductive objects.
- B. The term "extended reach" is used to describe being within five feet of energized conductors and/or equipment or having a conductive object within five feet of energized conductors and/or equipment

**BENEFITS:**

Eliminate injuries from unrecognized hazards or changes in conditions.  
Clarify duties and provides guidance as to when observers are beneficial.  
Provides guidance on observer qualifications.

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**BEST PRACTICE**

**SUBJECT:** INSULATE & ISOLATE SAFETY PERFORMANCE CHECK

**PRACTICE STATEMENT:** Review of qualification, and/or performance criteria to ensure compliance with Isolate and Insulate procedures.

**PRACTICE DESCRIPTION:** A safety review process shall be in place that will be performed by a competent person. Included in the review process will be assurances that the company safety rules and proper cover up procedures are being followed. Additionally, documentation such as Job Briefing forms and Job Safety Analysis forms shall be reviewed.

**BENEFITS:**

Routine auditing provides for performance and regulatory assurance for critical control techniques  
Effective auditing will enable enhanced and consistent performance

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**BEST PRACTICE**

**SUBJECT: LOCK-TO-LOCK USE OF INSULATING RUBBER GLOVES AND SLEEVES**

**PRACTICE STATEMENT:** Protocols related to effective use of insulating rubber gloves and sleeves.

**PRACTICE DESCRIPTION:**

1. When employees are working on energized circuits or equipment using the rubber glove method, rubber protective-insulating gloves and sleeves rated for the exposure of the highest nominal voltage shall be worn "lock to lock" when employees are working energized URD equipment. The term "Lock-to-Lock" is used to describe the utilization of rubber gloves and sleeves, when required, prior to the time the pad mounted equipment is unlocked until work is complete and the pad mounted equipment is relocked. Additionally, rubber gloves and sleeves shall be worn when working on or within the extended reach of the conductor or piece of equipment. The term "extended reach" is used to describe being within five feet of energized conductors and/or equipment or having a conductive object within five feet of energized conductors and/or equipment.
2. Electrical class rating of the insulating rubber sleeves shall meet or exceed the electrical class rating of the insulating rubber gloves.
3. When the above conditions cannot be met, alternative work methods ensuring worker safety shall be identified, communicated to all affected workers, implemented and documented as part of the Job Briefing process.

**BENEFITS:**

Provides specific use requirements that are proven methods for reducing electrical contact injuries and fatalities.  
Provides for uniform use guidelines that can be applied industry wide

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**BEST PRACTICE**

**SUBJECT: CRADLE-TO-CRADLE USE OF INSULATING RUBBER GLOVES AND SLEEVES**

**PRACTICE STATEMENT:** Protocols related to effective use of insulating rubber gloves and sleeves.

**PRACTICE DESCRIPTION:**

1. When employees are working on energized circuits or equipment using the rubber glove method, rubber protective-insulating gloves and sleeves rated for the exposure of the highest nominal voltage shall be worn cradle-to-cradle when working from an aerial platform.
  - a. Rubber protective insulating sleeves are not required when employees are working circuits with a potential of 600 volts or less if there is no upper arm exposure and the worker will not encroach the 5-foot primary zone.
  - b. The term "effective cover up" is used to describe the installation of phase-to-phase rated insulating protective cover on energized conductors and/or

- equipment of different potentials when the lineman is within reaching distance or in areas extended by handling conductive objects.
- c. The term "extended reach" is used to describe being within five feet of energized conductors and/or equipment or having a conductive object within five feet of energized conductors and/or equipment.
2. Electrical class rating of the insulating rubber sleeves shall meet or exceed the electrical class rating of the insulating rubber gloves when working on primary conductors.
  3. Company policies shall apply when the above conditions cannot be met. Alternative work methods ensuring worker safety shall be identified, communicated to all affected workers, implemented and documented as part of the Job Briefing process.

#### **BENEFITS:**

Provides specific use requirements that are proven methods for reducing electrical contact injuries and fatalities.  
Provides for uniform use guidelines that can be applied industry wide.

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#### **BEST PRACTICE**

##### **SUBJECT: RUBBER INSULATING PPE FOR THE LIVE LINE TOOL METHOD ON DISTRIBUTION LINES**

**PRACTICE STATEMENT:** Use of rubber insulating gloves and sleeves while performing distribution powerline tasks via the live line tool method.

##### **PRACTICE DESCRIPTION:**

*A. When working primary voltages aloft:*

For the purpose of this document M.A.D. is defined as the Minimum Approach Distance defined by applicable Federal, State or Local regulation. M.A.D. may also be known as "Primary Contact Zone", "Minimum Working Distance, "Within Reach", "Extended Reach", etc.

This Best Practice only applies to those applications where power-line workers are utilizing the "live line tool work method" aka - "hot sticking." Workers using the "live line tool work method" ("hot sticking") use insulating tools designed and intended for use while working on energized equipment and/or conductors. Workers using the "live line tool work method" are not permitted to make direct contact with energized equipment and/or conductors with their hands and are not permitted to be in a position where the worker can reach into, extend any conductive object into, or extend any other part of the body into the M.A.D. as prescribed in applicable Federal, State and Local Regulatory Standards.

It is not intended nor required that the Strategic Partnership *Cradle-to-Cradle Rubber Glove Work Method Best Practice* be applicable when power-line workers are using the "live line tool work method". The *Cradle-to-Cradle Rubber Glove Work Method Best Practice* applies only when work is to be done utilizing the "rubber glove work method". When a task requires the worker to reach into, extend any conductive object into, or extend any other part of the body into M.A.D. while using the "live line tool work method," the use of rubber insulating gloves and/or rubber insulating gloves and sleeves rated the voltage are required to be used as described in this Best Practice".

Donning of such PPE shall be done in a safe location so that M.A.D. requirements are not

violated. This may include repositioning of the aerial lift to its cradled position. It should be noted however, incident investigations have revealed M.A.D. violations have occurred during "live line tool work method" operations. The intent of this Best Practice is to eliminate both M.A.D. encroachment violations and subsequent injuries.

### ***Live Line Tool Method***

1. Rubber insulating gloves and sleeves are not required when working from a position where the worker cannot reach into, extend any conductive object into, or extend any other part of the body into the M.A.D. while using fiberglass insulating live line tools ("hot stick" method).
2. Before getting into a position where the worker can reach into, extend any conductive object into, or extend any other part of the body into the M.A.D., approved protective equipment shall be used to insulate and/or isolate energized conductors and/or parts.
3. Rubber insulating gloves shall be worn when tasks require the worker to reach into, extend any conductive object into, or extend any other part of the body into the M.A.D. when there is no upper arm exposure, even when proper cover is utilized.
4. Insulating rubber gloves and sleeves shall be worn when tasks require the worker be in a position where the worker can reach into, extend any conductive object into, or extend any other part of the body into the M.A.D. when all the above precautions have been taken and upper arm exposure still exists.

### **BENEFITS:**

Provides specific use requirements that are proven methods for reducing electrical contact injuries and fatalities.

Provides for uniform use guidelines that can be applied industry wide.

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