

Contract Terms and Conditions

Table of Contents

Terms and Conditions	2
A. Scope.....	2
1. Agreement.....	2
B. Performance Standards and Warranty.....	2
1. Compliance	2
2. Security and Fitness for Duty.....	2
3. Warranty	2
C. Compensation and Invoicing.....	3
1. Invoices	3
2. Payment Terms	3
3. Taxes.....	3
4. Disputed Invoices	3
D. Proprietary Information.....	3
1. Confidentiality	3
2. Permitted Use of ATC Confidential Information.....	3
3. Standards of Conduct.....	4
4. No Endorsement	4
5. Ownership of Work Product	4
E. Commercial Terms and Conditions.....	4
1. Indemnification	4
2. Limitation of Liability.....	4
3. Insurance	4
4. Independent Contractor.....	5
5. Obligation to Perform	5
6. Force Majeure	5
7. Termination and Modification	5
8. No Waiver.....	5
9. Remedies.....	5
10. Choice of Law.....	5
11. No Assignment or Subcontracting	5
12. Audit	6
13. Entire Agreement.....	6

Terms and Conditions

A. Scope

1. Agreement

Supplier shall provide the services and materials described in this Purchase Order (hereinafter referred to as the "PO" or "Agreement"), for the consideration and at the times and locations specified.

B. Performance Standards and Warranty

1. Compliance

Supplier shall comply at all times with all applicable federal, state and local statutes, ordinances, rules and regulations, including, but not limited to those pertaining to safety, non-discrimination and protection of the environment. Supplier specifically agrees to comply with all provisions of Executive Order 11246, as amended by Executive Order 11375 and all rules, regulations, and current relevant orders of the Secretary of Labor related to equal employment opportunity, including without limitation, the equal opportunity clause set forth at 41 C.F.R. sec. 60-1.4(a). The contract provisions required in such laws, regulations and executive orders are hereby incorporated by reference.

2. Security and Fitness for Duty

Supplier and its employees shall comply, at all times, with any and all current safety, security procedures and fitness for duty policies of ATC (as revised from time to time) that are applicable to the work performed by Supplier. These shall include, but are not limited to, ATC's Supplier Security Requirements located at <http://www.atcllc.com/SupplierProcedures.shtml>, and all policies prohibiting possession, sale or use of illegal substances, intoxicants, explosives or dangerous weapons on ATC premises or worksites. Such policies may require Supplier's employees or agents to submit to testing and/or background security checks. When background checks or testing procedures are applicable, Supplier will be so informed and provided with the testing procedure(s).

3. Warranty

Supplier hereby expressly warrants that it is duly authorized to perform hereunder, and holds all necessary business and professional licenses. All work shall be performed through personnel licensed, qualified, trained and competent to perform in the country(ies) and state(s) where the work is to be performed. Competent and qualified personnel shall be as defined in 29 C.F.R. sec. 1926.32(f) and (m). All services and materials shall be: (a) as represented by Supplier in all material respects; (b) free and clear of all liens and encumbrances; (c) free from defects in design, material or workmanship; (d) of good and merchantable quality; (e) conform to any specifications, drawings or samples provided by ATC; and (f) made or performed in accordance with good utility practices and generally accepted industry standards for the profession, materials or services. Materials and services shall be made and performed in a thorough and workmanlike manner, and to the reasonable satisfaction of ATC. The foregoing warranties shall survive inspection, delivery, payment and termination of this PO, and shall run in favor of ATC and its successors and assigns. In the event that ATC discovers that Supplier has failed to meet any standard or requirement set forth in this Agreement, ATC shall notify Supplier in writing of such failure. Supplier agrees, promptly and at its own expense, to repair or replace, at ATC's sole option, any materials, and to re-perform any services that fail to meet the standards and specifications stated herein, or are determined by ATC to be defective. Such remedy by Supplier shall include all costs related to in-place repair or replacement of any equipment or material originally supplied by Supplier, and Supplier shall reimburse ATC for any direct costs or expenses incurred by ATC as a result of Supplier's breach of this PO. If Supplier does not remedy and/or replace any materials or services within a reasonable time after written notice by ATC, ATC may remedy and/or replace them at Supplier's expense.

C. Compensation and Invoicing

1. Invoices

Supplier's invoices shall be submitted to ATC no less often than monthly, be itemized by PO line item, describe all goods and materials included in the invoice, and otherwise be structured to enable ATC to easily match invoiced amounts to this PO. Supplier's invoices shall include or attach all required back up documentation prior to being approved by ATC. ATC reserves the right to audit the books and records that support Supplier's invoices, as well as those that demonstrate compliance with Supplier's obligations hereunder.

2. Payment Terms

ATC shall pay Supplier on the earlier of (a) net thirty days, or (b) the number of days set forth in the "Payment Terms" section on the first page of this PO; which number of days shall commence after receipt by ATC of approved invoices accompanied by all required back up documentation.

3. Taxes

All applicable sales and use taxes shall be separately billed to ATC by Supplier, and paid to Supplier by ATC. Supplier shall administer and pay all sales, use, gross receipts, excise and other similar taxes and levies.

4. Disputed Invoices

ATC shall provide notice of any charge that it questions within 120 days after receipt, and shall schedule any audit relating to a contested invoice within a reasonable period of time thereafter. In the event that ATC disputes amounts owing, ATC may withhold payment of the disputed amount until the dispute is resolved, but shall pay undisputed amounts within the terms set forth above.

D. Proprietary Information

1. Confidentiality

While working with ATC, Supplier may receive and otherwise be exposed to ATC's confidential and proprietary information, including at times, information that is considered by ATC to be "Critical Energy Infrastructure Information" as that term is defined in 18 C.F.R sec. 388.113, which information is not generally known to others (collectively, "Confidential Information"). Confidential Information does NOT include information which (a) is approved for release by written authorization of ATC, but only to the extent of and subject to such conditions as may be imposed in such written authorization; or (b) is disclosed in response to a valid order of a court or other governmental or regulatory body of the United States, any state or any political subdivisions thereof, but only to the extent of and for the purposes of such order, provided that Supplier shall first notify ATC of the order and permit ATC to seek an appropriate protective order.

2. Permitted Use of ATC Confidential Information

Supplier agrees that such information is the sole, exclusive and extremely valuable property of ATC. Supplier shall use the Confidential Information only in furtherance of ATC's business and as specified by ATC, and shall share the information only with those with a specific need-to-know the information. Supplier agrees it will not reproduce Confidential Information in any manner or medium without prior written consent, use any Confidential Information for any purpose other than in the performance of Services for ATC under this PO, or divulge any part of Confidential Information in any form to any third party. Immediately upon either receipt of written notice from ATC or upon termination of this PO for any reason, whichever occurs first, Supplier agrees that it shall cease using and shall return to ATC all whole and partial copies, and derivatives of the Confidential Information.

3. Standards of Conduct

Supplier also acknowledges that it is aware of the Standards of Conduct imposed by the Federal Energy Regulatory Commission (18 C.F.R. part 358 et. seq.). Supplier agrees that it shall not disclose, directly or indirectly, to any entity engaged in the sale for resale or purchase for resale of electric energy in interstate commerce ("Wholesale Merchant Functions"), or to the employees or subcontractors of any such entity engaged in Wholesale Merchant Functions, any information concerning the ATC transmission system or the transmission system of any other entity or any market information (including, but not limited to, available transmission capability, price, curtailments or ancillary services) other than information posted on the Open Access Same-Time Information System ("OASIS") which is at the same time available to the general public without restriction.

4. No Endorsement

Supplier shall not advertise or publish the fact that ATC has contracted with it, nor shall any information relating to this PO be disclosed to third parties without ATC's prior written permission.

5. Ownership of Work Product

All documents and work prepared hereunder by Supplier or Supplier's employee(s) shall be deemed to be "works made for hire" for ATC. Upon creation, ATC shall acquire all rights, title and interest in such documents and work. Supplier hereby assigns, and will cause each of its employees providing Services to ATC to assign to ATC all right, title and interest in any and all documents and work.

E. Commercial Terms and Conditions

1. Indemnification

Each party agrees to indemnify and hold the other harmless from any and all claims, losses, expenses, fees (including reasonable attorney's fees), costs (including regulatory fines or penalties), and judgments to the extent and in the percentage the claims, losses, expenses, fees, costs or judgments are caused by the acts or omissions of the other.

2. Limitation of Liability

The parties hereto shall be liable, whether in contract or tort, only for those damages they actually cause, and only for those damages actually incurred by the other party. Neither party shall be liable to the other for any damages or any part of damages that are caused by their own acts or omissions. In addition, no indemnity shall be paid by ATC to Supplier either directly or indirectly, or through contribution or indemnification, for any damages or any part of damages for which ATC's liability is limited in a tariff filed with, and accepted for filing by the Federal Energy Regulatory Commission (or its successor agencies), or any applicable state tariff accepted or approved by a state regulatory commission, except in accordance with such tariff provision.

3. Insurance

Prior to performing under this PO, Supplier shall provide a certificate(s) of insurance evidencing the following:

- (a) Primary and Non-contributory insurance coverage;
- (b) Workers' Compensation in the statutory limits required in the states where work will be performed;
- (c) Employers Liability - \$500,000 for each accident, \$500,000 for each employee, \$500,000 for each policy;
- (d) Comprehensive General Liability, including but not limited to products and completed operations and broad form contractual liability - \$5,000,000 per occurrence;
- (e) Automobile Liability for all owned, non-owned, and leased vehicles - \$3,000,000;
- (f) ATC shall be named as an additional insured ATIMA on Comprehensive General Liability and Automobile Liability; and
- (g) Insurance carrier(s) will endeavor to give ATC thirty days prior written notice of any material change in, or cancellation of such insurance coverages.

INVOICES WILL NOT BE PAID UNTIL A CURRENT CERTIFICATE OF INSURANCE CONFORMING TO ALL OF THE REQUIREMENTS SET FORTH ABOVE IS RECEIVED.

4. Independent Contractor

Supplier is an independent contractor, and agrees that the persons doing work under this PO shall not be considered employees of ATC for any purpose.

5. Obligation to Perform

Supplier recognizes and understands that ATC is engaged in the business of transmitting high voltage electric current, which business constitutes the provision of critical infrastructure to the public. ATC's obligation to provide electric transmission services requires it to conduct efficient business operations twenty four hours per day, seven days per week, 365 days per year; including but not limited to, during inclement weather, natural disasters, events of civil disorder and during other disruptions, whether predictable or unpredictable. Accordingly, time shall be of the essence in each and every act to be performed hereunder.

6. Force Majeure

To the extent performance by either party is prevented or delayed due to circumstances beyond their reasonable control and contemplation (such circumstances shall hereinafter be referred to as events of "Force Majeure"), such party shall promptly give written notice to the other party, and shall exercise its best efforts to overcome the effects of the event of Force Majeure. The written notification shall include a full and complete explanation of the event of Force Majeure, and the actions such party is taking and proposes to take to overcome the event of Force Majeure. ATC shall have the right, at its sole discretion and upon written notice to Supplier, to terminate this PO and substitute performance during any event of Force Majeure that prevents or delays Supplier's performance hereunder.

7. Termination and Modification

This PO may be terminated on written notice by ATC, or modified in a writing signed by the parties hereto. ATC shall have the right at any time, via a writing signed by the parties, to modify drawings, designs, specifications, materials, quantities, packaging, time and place of delivery and method of transportation.

8. No Waiver

Failure of ATC or Supplier to insist on performance of any of the terms and conditions of this PO, or to exercise any right or privilege contained in this PO, shall not be considered as waiving any such term, condition, right or privilege. No waiver shall be effective unless reduced to writing and executed by both parties.

9. Remedies

Each of the rights and remedies reserved to the parties herein shall be cumulative and additional to any other remedies provided in law or equity.

10. Choice of Law

This Agreement is made in, and shall be substantially performed in the State of Wisconsin and shall be governed by and construed in accordance with the Laws of the State of Wisconsin. Any dispute arising under this Agreement shall be resolved in the Circuit Courts in Waukesha County, Wisconsin or the Federal District Court for the Western District of Wisconsin.

11. No Assignment or Subcontracting

Supplier's obligations under this Agreement may not be assigned or transferred to any entity, person, firm, subcontractor or corporation without the prior written consent of ATC. In no case shall ATC's approval of any entity, person, firm, subcontractor or corporation relieve Supplier of any of its obligations under this Agreement.

12. Audit

Supplier shall maintain books and records in accordance with Generally Accepted Accounting Principles (GAAP), which practices shall be consistently applied during the term of this Agreement. Upon request, ATC shall have access to all Supplier's books and records at ATC's premises or at Supplier's regular place of business during normal business hours to review, audit, and verify Supplier's books and records, including but not limited to:

- (a) priced copies of all purchase orders, invoices, receipting documents, change orders and contract amendments, and any other document reasonably required by ATC to verify and understand the invoices issued by Supplier to ATC;
- (b) all cost records, including payrolls, paid invoices, general ledger, etc;
- (c) compliance with the background and security checks required hereunder;
- (d) compliance with the confidentiality provisions herein; and
- (e) verification of job classifications.

Reasonable costs of reproduction shall be borne by ATC.

13. Entire Agreement

This PO constitutes the entire agreement between ATC and Supplier, and supersedes all prior written or oral understandings or agreements.