Exelon execute a Certificate of Final Completion. If any loss of or damage to the Work occurs prior to the date of acceptance or, where required, the date Contractor and Exelon execute a Certificate of Final Completion, Contractor shall at its sole expense promptly repair or replace the portion of the Work affected. Contractor shall be entitled to receive from Exelon the compensation received by Exelon or the proceeds of any applicable insurance policy covering the loss or damage. Unless otherwise provided in this Agreement, Exelon's insurance policies will not in any event cover property of Contractor unless such property is built into or intended to be built into the Work and may be subject, in each case, to substantial deductible amounts

ARTICLE 14.
CONTRACTOR'S INDEMNIFICATION

14.1 Indemnification.

Contractor shall, to the fullest extent permitted by Law, indemnify, defend upon request, and hold harmless Exelon and its officers, directors, employees, agents, representatives, subsidiaries, affiliates, successors, and assigns ("Exelon Parties") against all losses, claims, damages, expense (including reasonable attorneys' fees and costs) and liabilities sustained or incurred by the Exelon Parties for any damage, harm, loss or injury of any kind, direct or indirect, to any property or person (including death), including claims for injuries to employees of the Exelon Parties, Contractor and/or any Subcontractor, arising directly or indirectly out of any negligent act, omission or conduct, willful misconduct or default by Contractor or a Subcontractor or their respective officers, directors, employees, agents, representative, subsidiaries, successors, or assigns ("Contractor Parties") and/or arising directly or indirectly out of or in any manner associated with the Work under this Agreement or any contact with or encountering of any property, equipment, vehicles, facilities or personnel of the Exelon Parties. Contractor shall further, to the fullest extent permitted by Law, indemnify, defend Exelon Parties upon request, and hold Exelon Parties harmless against any loss sustained or incurred by Exelon Parties (including reasonable attorneys' fees and expenses) for any breach or nonperformance by Contractor or its Subcontractors of any portion of this Agreement. Exelon Parties' right to indemnification shall specifically include loss or damage to Exelon Parties' property. Exelon Parties' right to indemnification under this Section 14.1 shall include all loss, costs, legal fees and/or expenses associated with obtaining legal advice, prosecuting or defending any legal claim regarding insurance coverage, breach of this Agreement, contractual indemnity under this Agreement, or defense of any lawsuit filed by anyone for any claim relating either directly or indirectly to the Work or this Agreement. After Exelon is notified of a claim, Exelon will provide Contractor with prompt written notice of the claim.

14.2 Limitations on Indemnity.

To the extent any Law may prohibit any application of all or any part of the indemnity obligations in this Agreement, it is the intent of the parties that such provisions are severable, and shall be construed to impose the indemnity obligation in all circumstances, applications, and situations to the fullest extent permitted by Law.

14.3 Indemnification for Claims by Governmental Authorities or Others.

Contractor shall indemnify, hold harmless, and upon request, defend Exelon Parties from any claim, liability, damage, expense, suit, or demand (including reasonable attorneys' fees and court costs) for claims by Governmental Authorities or others (including Subcontractors and the employees of Contractor, said Subcontractors, or Exelon) of any (1) actual or asserted failure of Contractor or any Subcontractor to comply with any Law, including actual or asserted failure of Contractor or any Subcontractor to pay wages,

compensation, taxes, duties, or fees or to comply with employee safety orders, safe place, or employment laws, or (2) any claims asserted against Exelon Parties alleging that any of the Exelon Parties is an employer, co-employer or joint employer of any Contractor Personnel; or (3) any actual or asserted failure of an Exelon Party to comply with any Law by reason of any act, omission, conduct, negligence or default by Contractor.

ARTICLE 15.
INSURANCE

15.1 Required Coverages.

Contractor shall provide and maintain, and shall require each Subcontractor (regardless of tier) to provide and maintain, in effect during the performance of any Work under the Agreement minimum insurance coverage with carriers satisfactory to Exelon including:

15.1.1 Workers Compensation insurance with statutory limits, as required by the state in which the Work is to be performed, and employer's liability insurance with limits of not less than one million dollars ($1,000,000.00) per occurrence.

15.1.2 Commercial general liability (CGL) insurance (with coverage consistent with ISO Form CG 00 01 12 04) with a limit of not less than two million dollars ($2,000,000.00) per occurrence and per project or per location aggregate, covering liability for bodily injury and property damage, arising from premises, operations, independent contractors, personal injury/advertising injury, blanket contractual liability, and products/completed operations for not less than three (3) years from the date Exelon and Contractor execute a Certificate of Final Completion, if applicable, or the date Exelon accepts the Work. CGL insurance includes coverage for claims against Exelon for injuries to employees of Contractor or any Subcontractors..

15.1.3 Automobile liability insurance coverage (including coverage for claims against Exelon for injuries to employees of Contractor or any Subcontractors) for owned, non-owned, and hired autos with a limit of not less than one million dollars ($1,000,000.00) per accident.

15.1.6 If this Agreement involves or includes Contractor providing or performing design, engineering, consulting, or any professional service, professional liability insurance with a limit of not less than two million dollars ($2,000,000.00) per occurrence. If any such policy is written on a claims made basis, the retroactive date may not be advanced beyond the date of this Agreement, and coverage shall be maintained in full force and effect for 3 years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the parties.

15.1.8 Insurance coverage provided by Contractor under this Article 15 shall not include any of the following: any claims made insurance policies (except professional liability); any self-insured retention or deductible amount greater than two hundred fifty thousand dollars ($250,000.00) unless approved in writing by Exelon; any endorsement limiting coverage available to Exelon which is otherwise required by this Article 15; and any policy or endorsement language that (1) negates coverage to Exelon for Exelon's own negligence, (2) limits the duty to defend Exelon under the policy, (3) permits the recovery of defense costs from any additional insured, or (4) limits the scope of coverage for liability assumed under a contract.

15.1.9 To the extent permitted by applicable Laws, all above-mentioned insurance policies shall provide the following:

15.1.9.1 Be primary and non-contributory to any other insurance carried by Exelon;

15.1.9.2 Contain cross-liability coverage as provided under standard ISO Forms' separation of insureds clause; and

15.1.9.3 Provide for a waiver of all rights of subrogation which Contractor's insurance carrier might exercise against Exelon.

15.2 Additional Coverages.

Exelon reserves the right to require Contractor to provide and maintain additional coverages in the event that the particular Work involves unusual risks.

15.3 Additional Insured Endorsement.

All liability insurance policies (except professional liability) shall name Exelon, its officers, directors, employees, agents, representatives, Affiliates, subsidiaries, successors, and assigns, as additional insureds, shall be primary to any other insurance carried by Exelon, and shall provide coverage consistent with ISO Form CG 2026 (11/85), or the combination of ISO Form CG 20 10 10 01 and CG 20 37 10 01, and shall maintain the required coverages (including but not limited to coverage for claims against Exelon for injuries to employees of Contractor or any Subcontractors), naming Exelon as an additional insured, for a period of not less than two (2) years from the date Exelon and Contractor execute a Certificate of Final Completion, if applicable, or the date Exelon accepts the Work.

15.4 Evidence of Insurance.

Contractor shall provide evidence of the required insurance coverage and file with Exelon a Certificate of Insurance acceptable to Exelon prior to commencement of the Work. The Insurance and the insurance policies required by this Article 15 shall contain a provision that coverages afforded under the policies will not be canceled, allowed to expire or the limits in any manner reduced until at least thirty (30) days prior written notice (ten (10) days in the case of nonpayment of premium) has been given to Exelon. Exelon may inspect any or all policies of insurance at any time.

15.5 Waiver of Subrogation.

Contractor shall waive all rights of subrogation against Exelon under those policies procured in accordance with this Agreement.

15.6 Ratings.

All insurance coverage shall be provided by insurance companies acceptable to Exelon and having ratings of A-/VII or better in the Best's Key Rating Insurance Guide (latest edition in effect at the latest date stated in the Certificate of Insurance referred to in Section 15.4).

15.7 Breach of Agreement.

Failure to obtain and maintain the required insurance shall constitute a breach of this Agreement and Contractor will be liable for any and all costs, liabilities, damages, and penalties (including attorneys' fees, court, and settlement expenses) resulting to Exelon from such breach, unless a written waiver of the specific insurance requirement is provided to Contractor by Exelon.

15.8 Non-Waiver.

Failure of Contractor to provide insurance as herein required or failure of Exelon to require evidence of insurance or to notify Contractor of any breach by Contractor of the requirements of this Article 15 shall not be deemed to be a waiver by Exelon of any of the terms and conditions of this Agreement, nor shall they be deemed to be a waiver of the obligation of Contractor to defend, indemnify, and hold harmless Exelon Parties as required herein. The obligation to procure and maintain any insurance required is a separate responsibility of Contractor and independent of the duty to furnish a copy or certificate of such insurance policies.

15.9 Exelon's Right to Purchase.

In the event of any failure by Contractor to comply with the insurance requirements of this Agreement, Exelon may, without in any way compromising or waiving any right or remedy at law or in equity, upon five (5) days written notice to Contractor, purchase such insurance, at Contractor's expense, provided that Exelon shall have no obligation to do so and if Exelon shall do so, Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages. All such costs incurred by Exelon shall be promptly reimbursed by Contractor and/or may be withheld from any payment due Contractor.

15.10 Contractor's Commencement of Work Without Insurance.

Commencement of Work without the required Certificates of Insurance, or without compliance with any other provision of this Agreement, shall not constitute a waiver by Exelon of any rights under this Agreement.

15.11 Contractor Obligations Not Limited.

None of the requirements contained herein as to types, limits, or Exelon's approval of insurance coverage to be maintained by Contractor are intended to and shall not in any manner limit, qualify, or quantify the liabilities and obligations assumed by Contractor under this Agreement, any other agreement with Exelon, or otherwise provided by law.

ARTICLE 16.
LIMITATION OF LIABILITY

16.1 Limitation of Liability.

EXCEPT FOR CONTRACTOR'S INDEMNIFICATION OBLIGATIONS SET FORTH IN THE CONTRACT DOCUMENTS, IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL EXELON BE LIABLE TO CONTRACTOR FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING LOSS OF PROFITS OR REVENUE, OR COST OF CAPITAL.

CAP ON LIABILITY. EXCEPT FOR THE INDEMNIFICATION AND INSURANCE

OBLIGATIONS SET FORTH IN THE CONTRACT DOCUMENTS, THE AGGREGATE LIABILITY OF CONTRACTOR IN CONNECTION WITH A PURCHASE ORDER—WHETHER UNDER CONTRACT LAW, TORT LAW, WARRANTY OR OTHERWISE—SHALL NOT EXCEED THE TOTAL VALUE AMOUNT OF THE PURCHASE ORDER.

16.2 Contractor Liability.

Should Contractor Personnel sue Exelon for any injury allegedly received while performing Work under this Agreement and/or any Purchase Order, Contractor agrees to waive (to the extent of Contractor's indemnification obligations) in any suit filed by Exelon any limitation or cap imposed by any workers compensation Laws, workers compensation case law or Governmental Authority on the damages that Exelon can recover against Contractor in a third-party action by Exelon against Contractor.

ARTICLE 17.
TERMINATION AND SUSPENSION

17.1 Termination With Cause.

If either party breaches any provision of this Agreement or a Purchase Order (including the failure by Contractor to adhere to the performance standards set forth in this Agreement or the Purchase Order), the other party may give notice of such breach to the defaulting party in writing. If the breach is not cured within ten (10) days of receipt of such notice by the defaulting party, the defaulting party shall be in default hereunder and the non-defaulting party may elect to terminate the Agreement or the Purchase Order, or to continue the Agreement or the Purchase Order subject to receiving adequate assurances of performance from the defaulting party. In the event either party terminates this Agreement or a Purchase Order pursuant to this Section 17.1, Exelon shall not be required to make any payments to Contractor with respect to Services that have not been performed as of the date of termination. If the sum of all previous deposits and payments under this Agreement or the applicable Purchase Order with respect to the Work so terminated exceeds the amount owed to Contractor with respect to Services that have been performed as of the date of termination, the excess shall be immediately refunded to Exelon.

17.2 Termination or Suspension Without Cause.

Exelon may at any time on five (5) days notice to Contractor extend, suspend, or delay Contractor's performance of the Work or upon thirty (30) days' notice to Contractor terminate this Agreement or a Purchase Order for Exelon's convenience ("Termination for Convenience").

17.3 Suspension for Force Majeure.

Exelon may at any time extend, suspend or delay Contractor's performance of the Work if Exelon determines that Exelon's intended use of the Specific Project of which the Work is a part is or is likely to be delayed, changed, or stopped due to causes beyond the reasonable control of Exelon, including acts of God, fire, explosion, shortages of fuel, any act or failure to act of any civil or military authority, or strikes.

17.4 Termination Charges.

17.4.1 If Exelon terminates this Agreement or Purchase Order pursuant to Section 17.1, Contractor shall not be entitled to receive any further payments under this Agreement or a Purchase Order until all Work contemplated by this Agreement or Purchase Order has been fully performed as follows by Exelon or by some other person on behalf of Exelon. Exelon shall

have the right to prosecute the physical completion of the Work by means other than the use of Contractor, and in doing so Exelon shall have the right to exercise its sole discretion as to the manner, method, and reasonableness of the costs of completing the Work. Contractor shall bear any extra expenses incurred by Exelon in completing the Work, including all increased costs. After all Work contemplated by this Agreement or a Purchase Order has been completed, Exelon shall calculate the total expenses for the completed Work. If the total expenses exceed any unpaid balance due Contractor, Contractor shall be liable to Exelon and shall pay the difference to Exelon on demand.

17.4.2 If Exelon terminates the performance of the Work or this Agreement in accordance with Section 17.2, or if Contractor terminates the performance of the Work or this Agreement pursuant to Section 17.1, Exelon will pay Contractor for all reasonable and unavoidable disbursements and expenses that Contractor has incurred or become obligated for prior to the date of the notice of termination. In no event shall the aggregate termination charges plus payment for the Work exceed the price of the Work set forth in this Agreement or the relevant Purchase Order. Payments by Exelon hereunder will be credited with prior amounts deposited or paid by Exelon under this Agreement or the Purchase Order. If the sum of all previous deposits and payments under this Agreement and salvage and/or resale with respect to the Work terminated exceeds the amount owed to Contractor hereunder, the excess shall be immediately refunded to Exelon. Contractor agrees to take reasonable steps to minimize termination expenses.

17.5 No Overhead Costs or Profits.

Whether Exelon terminates Contractor with or without cause or suspends Contractor's Work on a Specific Project, in no event shall Exelon be responsible for overhead costs or profits associated with Work not performed by Contractor.

17.6 Disputed Termination.

If Exelon terminates this Agreement or a Purchase Order pursuant to this Article 17, and Contractor disputes Exelon's right or grounds for such termination, the issue shall be resolved in accordance with the Dispute Resolution Procedure in Article 27. If it is ultimately found, or agreed to by the Parties, that Exelon had no right or grounds for such termination, then the termination by Exelon shall be conclusively presumed in law to have been Termination for Convenience, and the damages for which Exelon may be liable shall be no more than those specified in Section 17.4.2.

17.7 Contractor's Duties Upon Termination.

If Exelon terminates this Agreement or a Purchase Order, as provided in this Article 17, Contractor shall immediately discontinue the Work. If requested by Exelon, Contractor shall make every reasonable effort to cancel any existing orders, Subcontracts and contracts specified by Exelon upon commercially reasonable terms satisfactory to Exelon. Contractor, upon request, shall also deliver and assign to Exelon, and Exelon may at its discretion assume, any and all contracts, Subcontracts, purchase orders, and options made by Contractor in performance of the Work. Contractor shall deliver to Exelon true and correct originals thereof and all copies of the Contract Documents in Contractor's possession except that Contractor may retain photocopies of all relevant documents for its own files, and all other materials relating to governmental permits, orders placed, bills, invoices, lien waivers, and financial management under this Agreement. Notwithstanding any termination, Contractor shall take such steps as are reasonably necessary to preserve and protect Work completed and in progress. No action taken by Exelon after termination shall prejudice any other rights or remedies of Exelon provided by law, by the Contract

Documents, or otherwise upon such termination. Should Exelon's termination of Contractor be partial, Contractor shall proceed to complete the portions of the Work, including Work pursuant to other Purchase Orders not terminated.

17.8 Resumption of Work.

If Exelon extends, delays, or suspends Contractor's performance under Sections 17.2 or 17.3, Contractor shall thereafter resume any Work extended, suspended, or delayed as soon as is practicable when directed to do so by Exelon. Any dates for performance by Contractor which are affected by an extension, delay, or suspension of Exelon shall be extended for a period not to exceed the time lost by reason of the extension, suspension, or delay. The payment schedules contained in this Agreement or Purchase Order shall be adjusted to reflect the effect of the extension, suspension, or delay on Contractor's rate of expenditures for performance hereunder, and performance schedules for Exelon's other obligations under this Agreement which are affected shall be extended for a period not to exceed the time lost by reason of the extension, suspension, or delay. Contractor shall also be entitled to an increase in the price for the Work affected by an extension, delay, or suspension directed by Exelon to cover Contractor's incremental direct costs by reason of the extension, suspension, or delay and for which Contractor is not compensated by any price adjustment provisions under this Agreement. Contractor shall take all reasonable steps to minimize these costs.

17.9 Temporary Deferment of Services.

Contractor shall, without cost to Exelon, temporarily defer the execution of any portion of the Work when such action may be necessary in the opinion of Exelon for the proper advancement of the work of other contractors or for other work by Exelon, when the deferment may be accomplished without unreasonable interference with Contractor's schedule or arrangements, or when the Work interferes or threatens to interfere with the operation of Exelon's facilities.

17.10 Subcontractors.

Contractor agrees to bind every Subcontractor to whom it subcontracts any of the Work by the provisions of this Article 17 as far as applicable to the Work of the Subcontractor.

ARTICLE 18.
PATENTS AND INFRINGEMENTS

18.1 Indemnity.

Contractor shall pay all royalties and license fees which may be payable on account of performance or use of any of the Work. Upon receipt by Exelon of a claim notice, Exelon will provide Contractor with prompt written notice of such claim. Contractor shall at its own expense defend any claim brought by others against an Exelon Party or its successors and assigns because the performance of the Work infringes, or is alleged to infringe directly or contributorily, rights in, to, or under patents or inventions, copyrights, trade secrets, and other proprietary rights or is the basis for a claim of unfair competition resulting from similarity in design, trademark, or appearance of goods by reason of the sale or use of the Work; and Contractor shall indemnify and hold the Exelon Parties harmless from any liability of any nature or kind (including all costs or expenses (including attorneys' fees)), arising out of any infringement or alleged infringement or claim of unfair competition. In addition, Contractor shall indemnify and hold the Exelon Parties harmless against, and shall pay all awards of damages assessed and all costs of suit adjudged

against such Exelon Party in such suits or proceedings, provided such Exelon Party promptly gives Contractor such information and assistance as is readily available to such Exelon Party, and authority as may be necessary to enable Contractor so to do. At Exelon's or such Exelon Party's expense (as determined between Exelon and such Exelon Party), an Exelon Party may be represented by and actively participate through its own counsel in any such suits and proceedings if it so desires.

18.2 Remedies.

In case any part of the Work is held in any such suit to constitute infringement and its use is enjoined, Contractor shall, or at any time after a claim of infringement arises, Contractor shall (at Contractor's option), promptly either (1) secure for Exelon such permission as will enable Contractor to secure the suspension of any injunction, or (2) replace at Contractor's own expense such part of the Work with an adequate non-infringing part or modify it so that it becomes non-infringing, but only if the replacement or modification does not adversely affect Exelon's acquisition costs, operating or maintenance costs, construction or operating schedules, operation or maintenance procedures, public relations, employee relations, any license or permit affecting Exelon's property or any other matter relating to Exelon's property or its operation. As an alternative to options (1) and (2) above, if both parties agree (such agreement or rejection shall be at each party's sole discretion), then Contractor may refund the entire price of the Work affected.

THIS ARTICLE CONSTITUTES CONTRACTOR'S SOLE AND EXCLUSIVE OBLIGATION WITH RESPECT TO THIRD PARTY INFRINGEMENT INDEMNITY CLAIMS BROUGHT AGAINST EXELON.

ARTICLE 19.
LABOR RELATIONS

19.1 Notice of Potential Labor Disruption.

Contractor shall immediately notify Exelon, in writing, of any labor dispute or anticipated labor dispute that may reasonably be expected to affect or delay the performance of the Work. Written notice shall include, at a minimum, identification of the organizations involved in the dispute together with any relevant information regarding the dispute and its background.

19.2 Jurisdictional Disputes.

If any union jurisdictional disputes arise involving Work performed by Contractor, Contractor shall be held solely responsible for pursuing all available remedies under applicable state and federal law, or under any existing labor agreements, to remedy the dispute and to ensure limited disruption in the performance of the Work or the work being performed by other Exelon contractors.

19.3 Prevent Stoppage or Slowdown.

Contractor shall be responsible for taking any and all actions reasonably necessary, which may include filing charges with the National Labor Relations Board and pursuing injunctive relief in federal and/or state courts, to prevent or end any stoppage or slowdown of the Work prior to, during, or subsequent to any labor dispute or activity. Further, Contractor shall arrange, if necessary, for a substitute or supplementary work force in the event of a stoppage or slow down in the Work. Contractor shall be responsible to Exelon for any delay, disruption, obstruction, or hindrance in the Work, and damages and extra costs resulting

from such disputes. Contractor shall not make any claim for a modification to Contractor's price or the Milestone Dates as a result of any labor dispute or activity.

19.4 Indemnification.

Contractor shall indemnify, hold harmless and, at the Exelon Parties' request, defend Exelon Parties from all claims, liability, damages, and expenses (including reasonable attorneys' fees) arising out of (i) a labor dispute, or (ii) claims under a collective bargaining agreement or project labor agreement.

19.5 Contractor's Rights.

Subject to Exelon's right to approve Subcontractors, nothing in this Agreement shall limit Contractor's right to negotiate or execute labor agreements on terms and conditions within Contractor's sole discretion consistent with Contractor's responsibilities and obligations under this Agreement or any Purchase Orders.

ARTICLE 20.
CONTRACTOR'S PERSONNEL

20.1 Competent Workers.

Contractor shall employ and cause each Subcontractor to employ competent, appropriately trained, and experienced employees for the Work to be performed. Contractor shall have full responsibility for the conduct of all employees employed on or in connection with the Work (including employees of any Subcontractor) and will ensure that there is adequate, daily supervision of all Work. Contractor shall be familiar with and observe established and accepted labor practices, procedures, and project agreements.

20.2 Qualification.

Contractor Personnel shall maintain all professional qualifications, licenses, permits, certifications and skills and appropriately complete all training required by applicable Laws or advisable to perform the Work.

20.3 Compliance with Exelon GPPMA

20.3.1 In connection with a Purchase Order and except as otherwise expressly provided by Exelon, if Contractor (1) performs (or plans to perform) any craft Work at an Exelon generating station property ("Exelon Generating Site") or (2) hires (or plans to hire) any craft labor to perform Work at an Exelon Generating Site, then Contractor (or if applicable, such Subcontractor performing the Work and/or hiring craft labor) shall execute a Letter of Assent, which represents such signatory's agreement to the terms and conditions set forth in the Exelon Generation Company, LLC Generating Facility Amendment to the General Presidents Project Maintenance Agreement, dated April 14, 2005 (the "Exelon GPPMA") prior to commencement of Work at such Exelon Generating Site.

20.3.2 Contractor shall perform the Work described above in Section 21.3.1 pursuant to the Exelon GPPMA and terms, conditions and covenants contained therein, including employing, or contracting with, individuals represented by the appropriate craft unions.

20.3.3 If Contractor breaches the provisions of Section 21.3, Contractor shall indemnify, defend upon request and hold harmless Exelon Parties from all claims, liability, damages, and expenses (including reasonable attorneys' fees) arising out of such breach.

20.4 Use of Contractor Personnel

20.4.1 Contractor shall comply with Exelon's Use of Contractor Policy, HR AC 70, as it may be amended from time to time. For purposes of this Section 20.4, all terms with initial capitalization that are not otherwise defined herein, shall be as defined in Policy HR AC 70.

20.4.2 Contractor, in furnishing the Work, is acting as an independent contractor, and Contractor has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed, all Work to be provided by Contractor under this Agreement. All Contractor Personnel who perform any portion of the Work hereunder for Contractor shall be, and remain, employees of Contractor, and Contractor shall be solely responsible for payment of compensation to such persons as well as all applicable federal, state and local income and employment tax withholding and reporting for all such Contractor Personnel. Neither Exelon, nor its Affiliates and successors (the "Exelon Entities") are, or shall be construed to be, an employer (common law or otherwise), co-employer or joint employer of any Contractor Personnel. Neither Contractor (or its Subcontractors) nor any Contractor Personnel is an agent of the Exelon Entities, and no such party or person has any authority to represent the Exelon Entities as to any matters, except as expressly authorized in this Agreement. Contractor will assume full responsibility for payment of all federal, state, provincial and local taxes, withholding or contributions imposed or required under unemployment insurance, social security and income tax laws with respect to all Contractor Personnel. Should any of the Exelon Entities be required to pay any amount to a governmental agency for failure by Contractor (or its Subcontractors) to withhold any amount as may be required by Law, Contractor shall indemnify each of the Exelon Entities for any amount so paid, including interest, penalties and fines.

20.4.3 Neither Contractor nor its Subcontractors will: (1) assign either (a) any Contractor Personnel to perform Staff Augmentation Work for the Exelon Entities, or (b) any Exelon Retiree to perform any Work for the Exelon Entities, for a total period of time (including time under this Agreement or any other agreement or through Contractor, its Subcontractors or any other third party employer and without regard to hours worked), in excess of 1 year, unless Exelon grants a written exception for such Contractor Personnel to the time limit; or (2) report income for any of its Contractor Personnel performing Staff Augmentation work to the Exelon Entities, to the IRS on Form 1099; or (3) allow any Contractor Personnel to commence Work for the Exelon Entities until an executed Third Party Personnel Acknowledgement (as defined below) has been received by Contractor.

20.4.4 Prior to commencement of Work by any Contractor Personnel, Contractor (or its Subcontractor), shall obtain from such Contractor Personnel, either directly or through its Subcontractors, a written acknowledgement from all proposed such Contractor Personnel, or its Subcontractor, substantially in the form of Exhibit E attached hereto (the "Third Party Personnel Acknowledgement" or "TPPA"). Contractor shall maintain the original of each TPPA for Contractor Personnel for a period of six (6) years following the termination of Contractor Personnel.

20.4.5 Based upon such executed Third Party Personnel Acknowledgements and prior to commencement of any Work by any such proposed new Contractor Personnel, Contractor shall provide to Exelon's Designated Representative a written notice that identifies the names (and if possible the former Exelon Employee identification number) of Contractor Personnel assigned to provide Work to Exelon who identify themselves as a former employee of one of the Exelon Entities or a Retiree of one of the Exelon Entities (a "Notice of Former Employees/Retirees"). Notwithstanding any other provision of this Agreement, Exelon reserves the right, to request additional information about any Contractor Personnel, to reject any proposed Contractor Personnel, and to request the removal (with or without replacement) of any or all Contractor Personnel from performing for Exelon hereunder at any time at its sole discretion. In the

event Exelon reasonably rejects any proposed Contractor Personnel or requests the removal of any Contractor Personnel, Contractor shall promptly remove such Contractor Personnel from providing Work to Exelon and provide a suitable replacement that meets all requirements of the Contract Documents. In the event Exelon requires the removal of any Contractor Personnel, Contractor shall also ensure a prompt and smooth transition of all knowledge, information and data from such Contractor Personnel to his or her replacement.

20.4.6 In addition to any other audit rights under the Agreement, Contractor agrees that Exelon, or any of its authorized representatives acting on Exelon's behalf, may upon reasonable request, audit Contractor's files and records regarding the utilization of Contractor Personnel hereunder, including all TPPAs. This section shall survive termination of this Agreement, and any Purchase Order issued for a specific project hereunder, for a period of six (6) years.

20.5 Background Examinations.

20.5.1 Contractor will be required to conduct background investigations in accordance with Exelon's security procedures for all of its personnel who will (1) have access to any Exelon or its affiliates' assets, including buildings, properties and/or customer information, and/or (2) have contact with any Exelon or its affiliates' customers. Such investigations must be completed prior to the first day upon which Contractor and its personnel are to provide the Services. This background investigation will be a minimum requirement and some Exelon business units or departments may have more stringent background investigation requirements, which must be followed in addition to these minimum requirements. The purpose of the background investigation is to ensure application of an appropriate level of security to Contractor Personnel who may affect the reliability, safety and integrity of Exelon's business and assets. At a minimum, the background investigation must include the following: names, dates of birth, home address, criminal history check, social security number verification or, if the subject is a foreign citizen, verification of an authorized work permit, and driver's license check (only required if a driver's license is needed in order to perform the Services). Additionally, any personnel who will have access to Exelon financial data and/or monetary assets must also be subject to a credit check and review of Federal District Court records for any prior bankruptcy filings.

20.5.2 Further Exelon business unit or department background investigations and examinations of Contractor Personnel may include, unless prohibited by applicable Law: (1) license or professional certification verifications; (2) physical and psychological examinations, including random drug testing; (3) education verifications; and (4) any other background investigations and examinations required by Law or Exelon policies that apply to Exelon personnel and other contractors.

20.5.3 Exelon may require Contractor to provide evidence of consent by its personnel, in a form provided by Exelon, to the performance of background investigations and examinations as provided above. If an individual refuses to consent to performance of a background investigation or examination described herein, Contractor shall not be in breach of this Agreement as a result of such individual's refusal to consent to such background investigation or examination, provided that Contractor (1) immediately removes and replaces such Contractor Personnel with someone who has met the minimum requirements set forth above, and (2) continues to perform the Services in accordance with this Agreement.

20.5.4 Contractor will be responsible for conducting the background investigation at its own expense and shall not be entitled to recover costs thereof unless both parties agree, in writing, in advance of the background investigation.

20.5.5 Upon completion of the background investigation, Contractor will submit a background investigation certification, which consists of the certification form or a written certification (letter or affidavit) as required by applicable Exelon procedures, to the Exelon Designated Representative.

20.5.6 In addition to the foregoing, if Contractor becomes aware that any individual performing Services hereunder is charged with or convicted of a felony or a misdemeanor, Contractor shall remove such individual from performing Services hereunder unless and until (1) the charge is resolved without a conviction or (2) Contractor informs Exelon of the circumstances and Exelon approves such individual continuing to perform Services hereunder.

ARTICLE 21
SUBCONTRACTUAL RELATIONS

21.1 Subcontractual Relations.

Subject to the terms of this Agreement, Contractor may utilize Subcontractors to perform portions of the Work.

21.2 Subcontracts.

Any portion of the Work to be performed for Contractor by a Subcontractor shall be performed pursuant to an appropriate written subcontract between Contractor and the Subcontractor ("Subcontract"). Contractor may employ Subcontractors in connection with the Work only upon prior written approval by Exelon. Exelon may withhold any such permission in its sole discretion and in any event if the Subcontract does not provide to Exelon's satisfaction for the confidentiality of the Confidential Information and the assignment to Contractor or Exelon of all rights in the Work. Any such agreement shall identify Exelon by name as a "third-party beneficiary." Any Subcontract between Contractor and Subcontractors, and between Subcontractors and other Subcontractors, shall provide that the Contract Documents form a part of any such Subcontract. Contractor shall require in its Subcontracts that Contractor and Subcontractor shall assume towards each other the same rights and duties Exelon and Contractor assume toward each other under this Agreement. Prior to the execution of a Subcontract, Contractor shall make available to each proposed Subcontractor a copy of the Contract Documents. Each Subcontractor similarly shall make copies of the Contract Documents available to its subcontractors. No Subcontract shall relieve Contractor of its obligations under the Contract Documents.

21.3 Assignment of Subcontracts.

Each Subcontract shall provide for the assignment of the Subcontract to Exelon at Exelon's election upon termination of this Agreement or a Purchase Order by Exelon. Such assignment shall provide that if Exelon fulfills Contractor's obligations to Subcontractor, then Subcontractor will perform the Subcontract on behalf of Exelon, its successors and assigns.

21.4 Contractor's Payments to Subcontractors.

Contractor shall pay each Subcontractor promptly upon receipt of payment from Exelon or as provided in the Subcontract. Exelon has no obligation to pay Subcontractors or to ensure Contractor pays

Subcontractors.

21.5 Disputes with Subcontractors.

Contractor shall inform Exelon of any material dispute arising between Contractor and any of its Subcontractors or between any Subcontractor and another Subcontractor. Contractor shall use its best efforts to avoid disputes regarding the Work and shall resolve such disputes as they arise. Contractor shall comply with Article 19 regarding any Subcontractor labor disputes.

21.6 Compliance with Laws.

Contractor shall cause any and all of its Subcontractors to comply with all applicable Laws in the performance of the Work hereunder.

ARTICLE 22.
SAFETY, SECURITY AND ENVIRONMENTAL REQUIREMENTS; COMPLIANCE WITH LAWS

22.1 Knowledge of Existing Conditions and Applicable Laws.

Contractor shall be deemed to have examined the Site involved in performing the Work and to have secured full knowledge of all conditions under which the Work is to be executed and completed, including soil conditions, including any and all physical parameters necessary to build any structures, and groundwater conditions, including estimates of flow direction and volume, the nature, location, and type of contamination likely to be encountered, the location of any and all above or below ground utilities, approaches to the Sites and the space available for work areas, storage and temporary buildings. Contractor understands and acknowledges that the Work performed hereunder may involve hazardous or toxic substance(s)/waste(s) and Health and Safety Laws and Environmental Laws related thereto. Contractor understands the potential hazards to persons, property and the environment associated with the Work and Contractor knowingly and voluntarily assumes all risk of injury and damage to Contractor, its employees and property caused by exposure to such hazardous substances, constituents, or contaminants while at the Site. Contractor agrees to advise fully all of its employees, agents, Subcontractors, and others working for Contractor at the Site, of the risks and all necessary environmental, safety, and health procedures required by Governmental Authorities. Further, Contractor shall continuously inspect the Work to identify any unsafe conditions and shall promptly take action to correct any condition which presents such a risk. Contractor warrants that it is technically, physically, financially, and legally ready, willing, and able to perform the Work hereunder and that it is familiar with and knowledgeable about the applicable Health and Safety Laws and Environmental Laws to the extent necessary to carry out its duties in a professional, complete and competent manner.

22.2 Safety.

22.2.1 If Contractor has been designated by Exelon as a Designated Safety Contractor, then Contractor shall comply with the Exelon Safety Policy training requirements as provided to Contractor by Exelon.

22.2.2 Contractor shall be responsible for safety with respect to Contractor's Work at the Site and shall initiate and maintain an overall safety program for each Specific Project (the "Contractor's Safety Program"). In order to protect persons and property from damage, injury, or loss, Contractor shall comply with, and cause all others performing any portion of the Work to comply with, all applicable Safety Laws, or Exelon's safety requirements, whichever is more

stringent. Contractor shall review and monitor the safety programs of Subcontractors to confirm that such safety programs are consistent with Contractor's Safety Program. Exelon shall not be in charge of, or in any way responsible for Contractor's Safety Program. Contractor shall promptly notify Exelon, in writing, of any material changes in Contractor's Safety Program or if Contractor discovers any conflicts between Exelon's and OSHA's safety requirements. Contractor's duties and responsibilities for ensuring safety and protection of the Work shall continue until such time as all the Work, including warranty Work after final payment, is completed.

22.2.3 Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to: (i) All persons on the Specific Project and all other persons who may be affected thereby; (ii) the Work and all Material to be incorporated therein, whether in storage on or off the Site, under the care, custody, or control of Contractor or any of its Subcontractors; and (iii) other property at the Site or adjacent thereto, including Exelon's existing facility (if any).

22.2.4 Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards and notifying owners and users of adjacent utilities.

22.2.5 Contractor shall notify owners of adjacent property and of underground facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

22.2.6 Contractor shall designate a responsible member of its organization at each Site whose duty shall include efforts to enforce Contractor's Safety Program. This person shall be Contractor's Designated Representative unless otherwise designated by Contractor in writing to Exelon.

22.2.7 Contractor shall notify Exelon and post appropriate signs when the Work is going to affect Exelon's operations or employees.

22.3 Security.

22.3.1 Contractor shall comply with Exelon's regulations in effect at any time governing the admittance of Contractor's employees to the Site and their identification while there.

22.3.2 Contractor shall take precautions acceptable to Exelon that will render all portions of the Work and the Site secure in every material respect, decrease the likelihood of accidents from any cause, and avoid vandalism and other contingencies which are liable to delay the Work or give rise to any claims or liabilities. Contractor shall be responsible for compliance with those requirements. Contractor shall be responsible for all fines or penalties assessed due to Contractor's failure to comply with applicable Health and Safety Laws and Environmental Laws, including any fines or penalties assessed against Exelon. Contractor shall indemnify and hold Exelon Parties harmless from any claim, liability, loss, or expense (including reasonable attorneys' fees and court costs) resulting from Contractor's failure (or that of its employees, agents, or Subcontractors) to comply with applicable Health and Safety Laws and Environmental Laws. Contractor shall furnish and install all necessary facilities to provide safe means of access to all locations where Work is being performed. Contractor is responsible for receiving, storing, and securing all materials necessary to complete the Specific Project that are delivered to the Site.

22.4 Reports of Accidents.

Contractor shall report promptly to Exelon any accident or unusual occurrence during performance of the Work, including personal injury or death to any employee or any member of the public, or any damage to any of Exelon's property, the Site, or adjacent property. Reports of personal injury or death to any person shall be made verbally within three (3) hours to Exelon's Designated Representative. Contractor shall submit a copy of all accident reports to Exelon's Designated Representative within twenty-four (24) hours after an accident. Upon discovery of the occurrence of any event that may constitute an emergency situation or an immediate endangerment to public health, welfare, or the environment, Contractor shall immediately verbally notify all parties required by Health and Safety Laws and Environmental Laws, including the National Response Center, and shall also immediately notify (but in any event no later than eight (8) hours after discovery of the event) Exelon's Designated Representative. In the event Exelon's Designated Representative is unavailable, and in any event, Contractor shall provide written notice to Exelon to be received no later than twenty-four (24) hours after the occurrence or discovery of the event. The written notice shall include a detailed description of the event, including the time and location at which the event occurred or was discovered, and any known causes of the event, any actions taken, or to be taken, to stop or mitigate the event.

22.5 Environmental Requirements.

22.5.1 All notifications regarding environmental requirements should be sent immediately to Exelon's Designated Representative.

22.5.2 If Contractor has been designated by Exelon as a Designated Environmental Contractor, then Contractor shall comply with the Exelon Environment Policy training requirements as provided to Contractor by Exelon.

22.5.3 Contractor shall furnish Exelon a complete list of all Hazardous Substances and all petroleum products, whether or not excluded from the definition of Hazardous Substances in CERCLA, contained in any Material brought onto the Site in connection with the Work and the amounts thereof. To the extent applicable, for all such Hazardous Substances, Contractor shall supply Exelon with warning labels and instructional material appropriate to warn persons coming in contact therewith of the hazard and its effects. Contractor shall, when available, recommend use of alternative non-hazardous and recycled/recyclable materials.

22.5.4 In the event that Contractor or others performing any portion of the Work encounter in the soil, air, or water at the Site, materials reasonably believed to be or contain "Hazardous Constituents," as that term and its derivatives are defined under Health and Safety Laws and Environmental Laws, including those wastes and substances which are brought to the Site by Contractor, in levels in excess of any applicable standards set forth under the Health and Safety Laws and Environmental Laws, Contractor shall immediately stop the Work in the area affected and report the condition to Exelon's Designated Representative and confirm such report within twenty-four (24) hours in writing. Contractor shall take reasonable precautions to prevent or contain the release, movement, spread, or disturbance of such Hazardous Constituents and to protect persons and property and shall notify Exelon immediately of such actions.

22.5.5 Contractor shall not bring, nor permit Subcontractors, or others performing the Work to bring onto the Site any Hazardous Constituents except as specified in, or permitted by, the Contract Documents. If the Work requires the transfer to Exelon by Contractor of any chemical substance or mixture, or any material which may generate or release a chemical substance or hazardous material, Contractor shall provide, before or with each such transfer, a Material Safety Data Sheet (OSHA Form 20 or equivalent ("MSDS")) and container labels, which

include current, accurate, and complete information relating to product hazards and precautions for safe use. Should Hazardous Constituents be specified in the Contract Documents, a copy of the MSDS must remain with the material at the Site for the duration of the Work. Any excess or surplus Hazardous Constituents which Contractor or a Subcontractor brings to the Site shall be disposed of as soon as possible by Contractor in accordance with all applicable Health and Safety Laws and Environmental Laws and the requirements of the Contract Documents. Contractor shall take precautions to prevent accidental releases or spills of material, including chemicals, petroleum products, gases, and litter. Contractor shall report promptly to Exelon's Designated Representative any accidental spills or releases of any Hazardous Substances or Hazardous Constituents and any petroleum products.

22.5.6 All Hazardous Constituents which must be disposed of or treated, stored, or removed from the Site, shall be collected, handled, transported, treated, stored, disposed of, or otherwise remediated in accordance with all Health and Safety Laws and Environmental Laws and the Contract Documents and procedures approved in advance by Exelon and delivered to a disposal site or other facility, acceptable to Exelon, at Exelon's sole discretion. In the event that the Hazardous Constituents existed at the Site prior to the commencement of the Work, and unless Exelon has retained Contractor to perform as the Work the collection, handling, transportation, treatment, storage and disposal of such Hazardous Constituents, Exelon shall be responsible for arranging for the collection, handling, transportation, treatment, storage, and disposal of such Hazardous Constituents in accordance with Exelon's procedures and the Law. In the event that Exelon has retained Contractor to collect, handle, transport, treat, store, and dispose of such Hazardous Constituents as the Work, or in the event that the Hazardous Constituents were introduced at the Site by Contractor, Subcontractors, or any other person or entity performing any portion of the Work, Contractor shall collect, handle, transport, treat, store, and dispose of such Hazardous Constituents in accordance with such Exelon procedures and Health and Safety Laws and Environmental Laws. Contractor shall perform the Work to minimize improper activities by Subcontractors, and any other person performing any portion of the Work, in connection with any Hazardous Constituents. Contractor shall coordinate the Work with the entities that collect, handle, transport, treat, store, and dispose of such Hazardous Constituents. Copies of all waste manifests for waste to be disposed of by Contractor shall be furnished to Exelon.

22.5.7 Contractor shall not under any circumstances apply to, or enter into negotiations with, any Governmental Authority for acceptance of variations from or revisions to Health and Safety Laws and Environmental Laws relating to this Agreement or a Purchase Order or to the performance thereof, without Exelon's prior written consent.

22.6 Hazardous Substances and Toxic Materials.

Contractor represents and warrants that it understands and accepts the currently known and potentially hazardous risks which may be presented to human beings, property, and the environment by potentially Hazardous Substances or toxic materials at or near the Site and agrees that it shall inform its officers, directors, employees, agents, consultants, and Subcontractors, and all other parties which may come into contact with hazardous substances or toxic material(s) as a result of Contractor's performance or failure to perform hereunder, of the nature of such materials and the health or environmental risk(s) associated therewith. Contractor shall perform the Work in such a manner as to ensure that all potentially hazardous materials will be removed and/or treated in such a manner which causes no contamination of the facility at which the Work is provided, endangers none of the workers performing the Work, and creates no short or long term threat to the health of other persons or the environment.

ARTICLE 23.
WASTE MATERIALS ASSOCIATED WITH WORK

23.1 Disposal Facilities.

Contractor shall handle any waste materials generated in the performance of the Work in full compliance with all applicable Health and Safety Laws and Environmental Laws and all Exelon policies and procedures. Contractor shall use only disposal facilities which have proper permits and are in full compliance with all Health and Safety Laws and Environmental Laws. Contractor shall promptly notify Exelon in the event any disposal facility being used by Contractor loses its permitted status during the term of this Agreement, and Contractor will immediately discontinue use of the facility for the disposal of such waste. Exelon has the right to reject, for any reason, Contractor's use of any particular disposal facility.

23.2 Environmental Records/Waste Manifests.

Contractor shall only transport waste materials from the Site to an off-site facility (or facilities) for treatment and/or disposal which has been issued, at the time of treatment and/or disposal of waste materials from the Site, all permits, licenses, certificates, or approvals, required by valid and applicable statutes, ordinances, orders, rules, and regulations of the federal, state and local governments in which such facility is located, necessary to allow such facility to accept, store, treat, process, and dispose of the waste materials in question. Contractor shall handle and preserve all waste material samples, cuttings, or hazardous substances taken for analysis or other like reasons in a manner consistent with the level of care and skill exercised by other contractors under similar circumstances at the time the samples are obtained.

23.3 Hazardous Waste Vendors.

Contractor shall prepare contingency plans and obtain satisfactory vendors to handle, treat, and/or dispose of hazardous substances encountered during the Work when such hazardous substances are required by applicable Health and Safety Laws and Environmental Laws and the Contract Documents to be handled, treated, and/or disposed off-site.

23.4 Use of Laboratories.

Unless otherwise required by Exelon, Contractor shall use only certified laboratory technicians and laboratories accredited by the American Industrial Hygiene Association in performing all laboratory Work required pursuant to the Contract Documents.

23.5 Recycling Material.

Contractor shall inform Exelon's Designated Representative of programs that Contractor provides for reusing and/or recycling Material, including waste from packaging and containers, used chemicals and equipment. Exelon, at its sole discretion, may direct Contractor to take back used material, packaging, and/or containers for reuse or recycling, in accordance with such Contractor's program. Any cost adjustments associated with the reuse or recycling of Material shall be identified in the Purchase Order.

ARTICLE 24.
DOCUMENTATION, PROPRIETARY INFORMATION AND WORK PRODUCT

25.1 Documentation: Ownership by Exelon.

Contractor shall provide Exelon with all information and documentation (which includes drawings, reports, and designs) within Contractor's Scope of Work and which is required by Exelon for the design, construction, licensing, quality assurance, operation, or maintenance of the Work or of the facility for which the Work is intended (collectively, "Work Product"). The Work Product shall be the sole and exclusive property of Exelon. Contractor shall promptly provide to Exelon all such information and other materials relating to the Work that Exelon may request in connection with any filing or other submission Exelon is making with any Governmental Authority, and Contractor may disclose all such information to such Governmental Authority as Exelon deems to be necessary or appropriate. In addition, Contractor shall cooperate with Exelon as requested by Exelon with respect to such filings or submissions. Notwithstanding anything set forth herein to the contrary, Contractor's generalized ideas, concepts, know-how, tools, models, methodologies and techniques utilized or developed prior to the effective date of this Agreement or developed in the course of this Agreement for Work being provided to a Person other than Exelon (except as otherwise provided in this Agreement or a Purchase Order) are not deemed "Work Product" and belong to Contractor ("Contractor's Proprietary Information"). Except as provided in Section 25.5, Exelon shall receive no right or interest in and to Contractor's Proprietary Information or any proprietary information of a Subcontractor under this Agreement. Contractor agrees to disclose to Exelon the existence of any Work Product of which Exelon would not otherwise be aware promptly upon its creation.

25.2 Exelon's Use of Contractor Information.

Exelon shall not be prohibited from disclosure or use of proprietary or confidential information or documents relating to the Work, or maintenance and service work related to the Work, which are required by Exelon in order to permit Exelon to secure or maintain in effect any license or permit for the Site or facility for which the Work is intended from any Governmental Authority, or otherwise to use or obtain the full benefits of the Work.

25.3 Contractor Use of Exelon Information.

Except as may be required by Contractor for the performance of its obligations under this Agreement, Exelon is not obligated under the terms of this Agreement to provide Contractor with any information that Exelon considers proprietary. If Exelon transmits any information to Contractor that Exelon considers proprietary, such information is deemed Confidential Information in accordance with Article 27. Contractor shall use that proprietary information, and any other information that Contractor knows or has reason to know is proprietary or confidential to Exelon, exclusively in connection with the Work and shall not use, publish or otherwise disclose it to any third-party. Contractor shall not use, publish or otherwise reproduce any logo or brand of Exelon or use or represent any endorsement by Exelon without the prior written consent of Exelon.

25.4 Assignment of Work Product.

Contractor agrees to assign and hereby does assign to Exelon the sole and exclusive right, title and interest in all Work Product, including any and all patent, copyright (including "works made for hire"), trade secret and other interests of any nature whatsoever. Contractor shall execute and deliver to Exelon, and shall cause its employees to execute and deliver to Exelon, any and all documents that Exelon may reasonably request to convey to Exelon any interest Contractor or its employees may have in any Work Product, or that are otherwise necessary to protect and perfect Exelon's interest in such Work Product. Contractor shall take and cause its employees and its Subcontractors and their employees to take such other actions as Exelon may reasonably request to perfect and protect Exelon's interest in any Work Product. Contractor shall be compensated at the hourly rate last in effect under this Agreement for any time expended in connection with assistance rendered by its personnel under this Section 25.4.

25.5 License to Use.

Unless otherwise agreed to in writing by Exelon, in the event and to the extent that any of the Work Product produced by Contractor contains any Contractor Proprietary Information, Contractor hereby grants to Exelon an irrevocable, perpetual, paid-up, non-exclusive, royalty-free, world-wide license to use, produce, reproduce, display, perform, distribute copies of, execute, publish, transmit and prepare derivative works based upon Contractor Proprietary Information as embodied in the Work Product, to authorize others to do any of the foregoing and to otherwise fully enjoy any or all such Contractor Proprietary Information.

ARTICLE 25.
CONFIDENTIAL INFORMATION

26.1 Definition.

The term "Confidential Information" shall mean all information or enhancements which relate to past, present, and future research, development, and business activities of Exelon and its Affiliates, including inventions, discoveries, formulas, processes, devices, methods, compositions, compilations, system plans, flow charts, source codes, algorithms, procedures, data and other proprietary information of Exelon, including, without limitation, "Confidential Customer Information" as hereinafter defined.

26.2 Exclusions.

Confidential Information shall not include:

26.2.1 Information lawfully known to Contractor prior to the performance of such Work other than through other work with or for Exelon or its Affiliates; or

26.2.2 Information that is publicly disclosed through no act of Contractor, Subcontractors or any of their respective employees, either prior or subsequent to Exelon's disclosures of such information to Contractor.

26.3 Contractor's Obligations.

During the term of this Agreement and thereafter, except as Exelon may authorize in writing, Contractor shall and shall cause its employees and Subcontractors to:

26.3.1 Treat and cause to be treated as confidential all Confidential Information;

26.3.2 Use Confidential Information only in connection with the performance of Work pursuant to this Agreement or the Purchase Order for a Specific Project;

26.3.3 Make copies of any tangible embodiment of Confidential Information only as necessary for the performance of such Work;

26.3.4 Remove any tangible embodiment of Confidential Information from the premises of Exelon only with the express written permission of Exelon; and

26.3.5 Return any and all tangible embodiments of Confidential Information to Exelon promptly following the request of Exelon, and in any event upon completion of Work pursuant to this Agreement or the Purchase Order.

26.4 Confidential Customer Information.

26.4.1 "Confidential Customer Information" shall mean any and all information about Exelon customers obtained by Contractor or its employees in the course of performing this Agreement, including, but not limited to, account numbers, names, social security numbers and other identification numbers/letters, service addresses, billing and financial information, capacity data, usage, rates, customer credit information, pricing information, payment methods, or potential termination of service.

26.4.2 Contractor hereby acknowledges that all Confidential Customer Information which has or will come into Contractor's possession or knowledge, in connection with this Agreement and any amendment or addendum hereto or the performance hereof, consists of confidential information, use of which by or disclosure or which to third parties will be damaging to Exelon customers and to Exelon. Contractor therefore agrees to hold such Confidential Customer Information in the strictest confidence, not to make use thereof other than for the performance of this Agreement, to release it only to employees requiring such information and not to release or disclose it to any other party. Contractor shall make their employees and subcontractors aware of their duty and responsibility to refrain from any unauthorized use or disclosure of Confidential Customer Information and Contractor shall be liable for any alleged breach of its confidentiality obligations by its employees or subcontractors. All of the above restrictions and liabilities shall survive any termination of the Agreement.

26.5 Disclosure Pursuant to Court Order.

Notwithstanding the foregoing, Contractor may disclose Confidential Information to the extent that disclosure is required by a Governmental Authority of competent jurisdiction, provided that Contractor shall provide notice to Exelon of the request for such disclosure promptly upon receiving it and that Contractor shall fully cooperate with Exelon in any effort by Exelon to secure a protective order against such disclosure.

26.6 Irreparable Harm.

Contractor acknowledges that the breach of any of the covenants contained in this Article 27 will result in irreparable harm and continuing damages to Exelon and Exelon's business, and that Exelon's remedy at law for any such breach or threatened breach would be inadequate. Accordingly, in addition to such remedies as may be available to Exelon at law or in equity in the event of any such breach, any court of competent jurisdiction may issue an injunction (both preliminary and permanent), without bond, enjoining and restricting the breach or threatened breach of any such covenant, including an injunction restraining Contractor from disclosing, in whole or in part, any Confidential Information. Contractor shall pay all of Exelon's costs and expenses, including reasonable attorneys' fees and accountants' fees, incurred in enforcing such covenants.

26.7 Ownership of Confidential Information.

Exelon shall be the owner of all Confidential Information that is developed, created, conceived, reduced to practice, or authored by Exelon or Contractor or jointly by Exelon and Contractor during the course of the performance of the Work.

ARTICLE 26.
DISPUTE RESOLUTION

27.1 Step Negotiations.

The parties shall attempt in good faith to resolve all disputes under the Contract Documents ("Disputes") promptly by negotiation as follows. Any party may give the other party written notice of any Dispute not resolved in the normal course of business. Executives of both parties at levels one level above the individuals who have previously been principally involved in the Dispute shall meet at a mutually acceptable time and place within 10 days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute. If the matter has not been resolved within 30 days from the referral of the Dispute to senior executives or if no meeting of senior executives has taken place within 15 days after such referral, either party may initiate such legal action as it deems appropriate. If a negotiator intends to be accompanied at a meeting by an attorney, the other negotiator shall be given at least 3 Days notice of such intention and may also be accompanied by an attorney. All negotiations pursuant to this Section 27.1 are confidential and protected from subsequent testimonial disclosures, and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

27.2 Work to Continue.

In the case of any Dispute, Contractor shall continue to perform the Work pending final determination of the Dispute, and Exelon shall continue to make payments to Contractor in accordance with the Agreement for those portions of the Work completed that are not the subject of Dispute.