

**PHILADELPHIA ENERGY AUTHORITY
STANDARD TERMS AND CONDITIONS**

1. Independent Contractor

Consultant acknowledges that Consultant is an independent contractor and that Consultant is not an employee of the PEA. Consultant also acknowledges that Consultant is not entitled to participate in any employee benefit plan or receive any benefits of the PEA normally accorded to employees, shall not receive coverage under any Workman's Compensation Statute, and shall be solely responsible for securing and maintaining any necessary insurance or licenses.

2. Non-Exclusivity

Consultant is under no obligation to work exclusively for the PEA, and may accept engagements, work, and assignments from parties other than the PEA on a regular basis. The PEA and the Consultant agree and acknowledge that the Consultant's services are separate and distinct from the services and business operations of the PEA, and that the business operations of the Consultant shall not, at any time, be integrated into the business operations of the PEA.

3. No Agency

Consultant is authorized to represent himself or herself as an independent contractor of the PEA, but shall have no authority to and shall not represent that he or she has authority to bind the PEA in any manner.

4. Standard of Performance

Consultant shall enter upon the performance of this Agreement with all due diligence and dispatch: shall press to its complete performance in a manner consistent with a degree of professional skill and competence pursuant its professional standards. All of the services requires hereunder of Consultant shall be performed to the satisfaction and approval of The Authority.

5. Confidentiality

Consultant agrees to keep confidential for the benefit of the PEA any and all of their trade secrets or confidential or proprietary information, knowledge or data disclosed to him/her or obtained by him/her during the term of this Agreement and will not thereafter disclose any such trade secrets, information, knowledge or data to any other person, firm or corporation.

6. Assignment/Successors.

This Agreement is personal to Consultant and is not assignable by him/her. It may, however, be assignable by the PEA. The PEA's rights hereunder shall be enjoyed by any successor in interest to the PEA. In the event of Consultant's death, inability to perform his/her duties or his/her breach of this Agreement, the PEA shall have no further obligations hereunder other than to pay him/her or his/her estate any fees or expenses that are payable hereunder which are accrued and unpaid to the date of either his/her death, disability or termination.

7. Compliance with Laws

All services rendered and documents prepared by Consultant shall strictly conform to all applicable laws, statutes and ordinances (including, but not limited to, the Fair Practices Ordinance, Philadelphia Code Chapter 9-1100), and the applicable rules, regulations, methods and procedures of all governmental boards, bureaus, offices, commissions, quasi-government agencies, the Philadelphia Energy Authority ("PEA") board and other agencies.

8. Work Product

Work product prepared by Consultant in the performance of this Agreement shall be the absolute property of the PEA.

9. Subcontracting

Consultant shall not subcontract any work hereunder without prior written approval by the PEA.

10. Change Orders

Any material additions, revisions or adjustments to the Services, including cost, period for provision of the Services or delivery dates, will be effected only pursuant to a written order signed by an authorized representative of both parties. If the PEA initiates a change order request, Consultant will promptly respond to such request in writing. If Consultant initiates a change order request, the PEA failure to affirmatively accept the request within a reasonable period of time shall be deemed a rejection.

11. Conflicts with Consultant's Proposal

In the event of conflict of variance between this Agreement and the proposal of Consultant, this Agreement shall govern.

12. **Indemnification**

Consultant agrees to unconditionally indemnify and hold harmless the PEA, its affiliates, and its respective agents, employees, offices, directors, and owners, from and against all liabilities, costs, expenses, claims, disputes, damages, lawsuits, losses, or assessments (including attorney's fees) suffered or incurred in connection with any claim asserted by any party (regardless of the form of or forum in which such claim may be asserted) whether based upon the Consultant's negligent or willful act or omission, or that of anyone employed, retained, or utilized by the Consultant, or whether based upon events or activities of the Consultant during the rendering or performance of, or attempts to render or perform, the services of the Consultant for the PEA in accordance with this Agreement.

13. **Termination**

The Authority reserves the right to terminate this Agreement at any time at its sole discretion by giving Consultant thirty (30) days notice, however, Consultant shall be entitled to reimbursement for any services rendered prior to the date of termination.

14. **Force Majeure**

Notwithstanding any provision of this Agreement, neither party shall have any responsibility or liability for any failure, error, malfunction, or delay resulting from events due to any cause beyond its reasonable control, including, but not limited to sabotage, fire, flood, explosion, acts of God, civil commotion, strikes, stoppages or labor or industrial action of any kind, riots, insurrections, war or acts of government power or equipment failure (including that of any common carrier, or transmission line), emergency condition or cause. The PEA shall not be liable for any failure to perform any of its obligations under this Agreement if such performance would result in it being in breach of any law, regulation, requirement or provision of any government or government agency in accordance with which it is required to act, as it shall determine.

Where a force majeure event has occurred that prevents to any extent a party in the performance of its obligations under this Agreement or under any Schedule, the performing party that is unable to perform shall be excused from further performance or observance of the obligations(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance as soon as possible and to whatever extent possible without delay.

15. **Nondiscrimination**

This Agreement is entered into in concert with the terms of the Philadelphia Home Rule Charter and in its performance; Consultant shall not discriminate nor permit discrimination against any person because of race, color, religion, gender identity or expression, national origin or sex. In the event of such discrimination, the Authority may terminate this Agreement forthwith.

16. **Limitation of Liability**

To the fullest extent permitted by applicable law or regulations, Consultant's liability to the PEA for any claim or cause of action arising out of or related to this Agreement, including breach of warranty, breach of contract, negligence, and other torts arising out of or relating to this Agreement and the Schedules, shall not exceed the amounts paid or payable by Consultant for such project.

17. **Chapter 17-400 of the Philadelphia Code**

In accordance with Chapter 17-400 of the Philadelphia Code, Consultant agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring tenure of employment, promotion, terms privileges or condition of employment, on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes a substantial breach of this Agreement entitling the Authority to all rights and remedies provided in this Agreement or otherwise available in Law or equity.

(a) Consultant agrees to include the immediately preceding paragraph; with appropriate adjustments for the identity of the parties, in all subcontracts which are entered into for work to be performed pursuant to this Agreement.

(b) Consultant further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of The Philadelphia Code. Failure to so cooperate shall constitute a substantial breach of this Agreement entitling the Authority to all rights and remedies provided herein or otherwise available in Law or equity.

18. **General**

This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and will be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania. No modifications, amendments or waiver of any provision thereof shall be effective unless made in writing and signed by the parties. In case any provision of this Agreement shall be held ineffective or unenforceable, the remaining provisions shall remain unaffected.